

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA No. EP:10-CR-2213-KC
v. El Paso, Texas
RAMON RENTERIA May 25, 2012

JURY TRIAL
VOLUME VI
BEFORE THE HONORABLE KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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4 Proceedings recorded by stenotype. Transcript produced by
5 computer-aided transcription.
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David A. Perez, RMR, RPR

1 COURTROOM DEPUTY: EP:10-CR-2213, USA versus Ramon
2 Renteria.

3 MR. SKARET: Good morning, Brian Skaret, Joseph Cooley
4 and George Leal for the United States.

5 MR. FOSTER: Scott Foster for the defendant. We're
6 ready to proceed.

7 THE COURT: I know we had a discussion about
8 voluntariness. I have a -- I like to have the charge way
9 early. And as we're winding down and getting to the point
10 where I'm going to give it to you, my understanding is that
11 it's an agreed to charge. That both the Government and
12 defendant have gone over it. And that I know we may have a
13 Rule 29 motion. But as far as the charge itself, is that
14 correct? Is it an agreed to charge or is it not?

15 MR. SKARET: Your Honor, I believe it is agreed.

16 MR. FOSTER: It is agreed, Judge.

17 THE COURT: Okay. Great. All right. That being
18 said, let's take up your issue.

19 MR. SKARET: Your Honor, we'd like to call Lieutenant
20 Fabian Galindo to the stand.

21 THE COURT: All right. Whenever you're ready.

22 FABIAN GALINDO, SWORN

23 DIRECT EXAMINATION

24 BY MR. SKARET:

25 Q. Good morning, sir.

1 A. Good morning.

2 Q. Would you please introduce yourself to the Court?

3 A. My name is Fabian Galindo. Lieutenant with the Federal
4 Bureau of Prisons.

5 Q. How long have you worked at the Bureau of Prisons?

6 A. 14 years, sir.

7 Q. And what are your duties as an employee of the Bureau of
8 Prisons?

9 A. Um, Lieutenant, Special Investigative Office.

10 Q. What do you do as an officer in the special investigative
11 office?

12 A. Conduct investigations on threats to inmates, threat
13 assessments, track STG. And within the institution, staff
14 cases.

15 Q. What is STG?

16 A. Security Threat Groups.

17 Q. Another word for prison gangs?

18 A. Yes.

19 Q. In July of 2010, were you sent by the Bureau of Prisons to
20 work on a detail at the El Paso Field Division of the FBI to
21 assist with a wire intercept of a contraband prison phone
22 belonging to Carlos Pereya at the U.S. penitentiary in Pollock,
23 Louisiana?

24 A. Yes, I was.

25 Q. And why were you sent there?

1 A. Pretty much looking out for the Bureau of Prisons' best
2 interests.

3 Q. And what were the Bureau of Prisons' interests at that
4 time?

5 A. With the fact that there was a identified cell phone inside
6 a federal institution, making sure that it wasn't going to
7 compromise the security and orderly running of that
8 institution. Should there have been, maybe, a threat to
9 somebody's life, threat to the security of the institution, we
10 would have let them know.

11 Q. In the usual course of business if a cell phone is found
12 within a prison system, what is done with that cell phone?

13 A. If we get information where it is, we'll go in and
14 confiscate it, take it.

15 Q. Was this an exception to the regular rule?

16 A. Most definitely.

17 Q. Did you also help in the -- in the kitchen at the FBI?

18 A. Yes, I did.

19 Q. And what is the kitchen?

20 A. The kitchen was a room where the wiretap was being
21 monitored.

22 Q. And who was monitoring the wiretap?

23 A. As far as agencies?

24 Q. Exactly.

25 A. I believe there was different agencies. FBI. There was

1 DEAs, I believe.

2 Q. Were there linguists in the kitchen?

3 A. There was.

4 Q. Were you assisting the linguists?

5 A. I was assisting the linguists with translations and
6 interpretations.

7 Q. And why were you in that -- why were you working in that
8 capacity?

9 A. A lot of what they were interpreting was, I guess, in
10 common, improper Spanish. My purpose there was to interpret
11 the slang into pretty much what they were intending to say.

12 Q. And in your work with the special investigative service at
13 the Bureau of Prisons, do you come in contact with a lot of
14 prison or street slang?

15 A. Yes, sir. With experience that I have and the time that I
16 have in the special investigative office, I've been exposed to
17 a lot of different gangs terminologies they use. So. . .

18 Q. In August of 2010, the wire went down. Did you continue
19 working at the FBI after that time?

20 A. No, sir.

21 Q. And did you go back to your -- back to your place of
22 business?

23 A. I went back to my assignment, yes, sir.

24 Q. And you are assigned to which location?

25 A. United States Penitentiary in Beaumont, Texas.

1 Q. Did there come a time when the Bureau of Prisons seized the
2 contraband cell phone belonging to Carlos Pereya?

3 A. How was that again, sir?

4 Q. Did there come a time when the Bureau of Prisons seized the
5 contraband phone that belonged to Carlos Pereya?

6 A. Yes, sir.

7 Q. And after that phone was seized, did you have any contact
8 with the defendant, Ramon Renteria, at Beaumont?

9 A. Yes, sir.

10 Q. How did you come into contact with him?

11 A. Um, that was gonna be on -- on weekly routine rounds that
12 were conducted in the special housing unit. I would make
13 rounds over there. We talked to every inmate in the special
14 housing unit, just to see if they're okay, see if they need
15 anything.

16 Q. I'd like to show you what's been marked as Government's
17 Exhibit 31. Are you seeing on exhibit on your screen?

18 A. Yes, I am.

19 Q. Now, based on what you're saying, Lieutenant Galindo, in --
20 during the time of early August of 2010, where is the -- where
21 is the -- an individual named Ramon Renteria located?

22 A. During the time frame of August?

23 Q. Early August of 2010.

24 A. He was located in USP Beaumont in the special housing unit.

25 Q. Let's start this over. I'm showing what's been marked as

1 Government's Exhibit 31. Do you see that on your screen?

2 A. Yes, sir.

3 Q. Okay. Do you recognize what this is here?

4 A. Yes, I do, sir.

5 Q. And what is it?

6 A. It's a Sentry record for -- it's a PP37 for Inmate
7 Renteria.

8 Q. And is this a Bureau of Prisons document?

9 A. Yes, this is a database that the Bureau of Prisons uses.

10 Q. All right. And what does this particular document show us?

11 A. The category is quarters. His housing assignments.

12 Q. His --

13 A. Housing assignments.

14 Q. -- housing assignments?

15 A. Uh-huh.

16 Q. Now, direct your attention to the top line here that's in
17 dark green.

18 A. Yes, sir.

19 Q. Tell us what that line tells us about the defendant's
20 whereabouts.

21 A. Starting at the far left is the facility where he was
22 housed. That was over in Pollock. USP Pollock.

23 Q. Okay. And what about the next column?

24 A. The assignment is going to be -- is Bravo 02. I'm gonna
25 say that's gonna be Bravo, Alpha Bunk 256, lower.

1 Q. Okay. Um, and it tells us -- does it say which bed he's
2 located on?

3 A. Yes. Cell 256, in the lower bunk.

4 Q. All right. And he's there from?

5 A. He got put into that cell assignment 5-10-09 at,
6 approximately, 9:24.

7 Q. And when did he leave?

8 A. He left that cell assignment, um, 8-19-10 at 1:15.

9 Q. All right. Now, based on this particular record, does the
10 defendant go anywhere from Pollock?

11 A. Yes, sir. On the the next line up, you'll see that the
12 facility -- as BMP. That's gonna be USP Beaumont.

13 Q. Okay.

14 A. Z05 is gonna be our special housing unit. Okay.

15 Q. What time does -- what day does he get to Beaumont?

16 A. He gets to Beaumont 8-19-10 at 4:57 in the morning.

17 Q. All right. And then what time does he leave that
18 particular place?

19 A. He leaves there -- he leaves that cell -- what time does he
20 leave Beaumont or what time did he leave that cell?

21 Q. That cell.

22 A. He leaves that cell, 8-19-10 at 5:18.

23 Q. Now, once he arrived at your facility, did you have any
24 contact with Ramon Renteria?

25 A. Yes, sir. We would do -- after our meetings we would make

1 rounds with wardens and other department heads over in the
2 special housing unit and visit every inmate that is in the
3 special housing unit.

4 Q. And did you have conversations with a man named Ramon
5 Renteria?

6 A. Any conversation I would have had with him would have been
7 that of the same nature with any other inmate, just to see if
8 they're okay. See if they need anything, any complaints.

9 Q. The individual at your facility at that time, Ramon
10 Renteria, did he have a nickname?

11 A. Yes.

12 Q. And what was it?

13 A. Spook.

14 Q. If you saw Ramon Renteria, also known as Spook, again,
15 would you recognize him?

16 A. Yes, sir.

17 Q. And do you see him in the courtroom today?

18 A. Yes, I do.

19 Q. Would you please point him out and tell us where he's
20 sitting and identify him by an article of clothing he's
21 wearing?

22 A. He's sitting over here, sir, wearing a blue shirt and brown
23 coat.

24 Q. And who's he's sitting with?

25 A. Another gentleman there in a gray suit with a maroon shirt.

1 MR. SKARET: Would the record reflect the positive
2 identification of the defendant?

3 THE COURT: It will so reflect.

4 Q. (By Mr. Skaret) When the -- do you know when the
5 defendant's release date from Beaumont was set for?

6 A. Could I see that document?

7 Q. I'm showing you what's been marked as Government's Exhibit
8 31.

9 A. Yes, he left -- he left our institution, USP Beaumont,
10 9-21-10 at 1:15.

11 Q. Do you remember that day?

12 A. Yes, I do.

13 Q. All right. Did you see the defendant that day?

14 A. Yes, I did.

15 Q. And why did you see him?

16 A. Being that he was releasing to the streets, we often do
17 exit interviews on individuals as the are leaving the bureau.

18 Q. Tell me what is meant by the term receiving and discharge
19 by the Bureau of Prisons.

20 A. Receiving and discharge. When an individual is being
21 received into the institution, this is the first place that
22 they go where they get searched. They get the change of
23 clothes. They get fingerprinted. They get identified. They
24 get screened by the unit team, medical, the special
25 investigative office.

1 When an individual is departing, this is the last
2 place that he will go. Again, he will be properly identified.
3 He will be fingerprinted, photographed. If he's leaving the
4 bureau, SIS, our office, Special Investigative Office, will
5 conduct exit interviews on him.

6 Q. And did you conduct one of those exit interviews that day?

7 A. Yes, I did.

8 Q. And when was the exit interview taking place?

9 A. It took place in the middle of R and D near a desk.

10 Q. Was there anyone else in that room that day?

11 A. Yes, an intelligence research specialist is right there --
12 was there with me.

13 Q. And about how long did you talk to the defendant?

14 A. Approximately, 15 minutes.

15 Q. What was the purpose of your interview with the defendant
16 that day?

17 A. Maybe -- to gather any pertinent information that would be
18 relevant to the security of the institution.

19 Q. Did you read him his Miranda rights that day?

20 A. No, I did not.

21 Q. Why not?

22 A. Because that interview was only for informational purposes.

23 Q. As a practice, do you conduct these exit interviews on all
24 inmates leaving the Beaumont facility?

25 A. I conduct those interviews on inmates that are leaving the

1 bureau.

2 Q. Leaving the bureau?

3 A. Yes. If they're just transferring from one institution en
4 route to another, not likely. If they're leaving the bureau
5 and going to the streets, yes.

6 Q. And is it your practice to read Miranda to those
7 individuals?

8 A. No, sir.

9 Q. Why not?

10 A. Again, these interviews are only for informational
11 purposes.

12 Q. Now, at the time you mentioned that you were talking to him
13 in the discharge area of the prison, had the defendant changed
14 clothes by the time you were speaking with him?

15 A. I believe he had.

16 Q. What was his demeanor like at the time?

17 A. Maybe -- maybe antsy, maybe a little nervous.

18 Q. And why would -- why would you be nervous or if -- did he
19 say why he was nervous?

20 A. Probably about going to the streets after being locked up
21 so many years.

22 Q. How was his mental condition?

23 A. His mental condition seemed fine, sir.

24 Q. Did he seem willing to talk to you?

25 A. Yes, sir.

1 Q. Did you discuss tattoos that day?

2 A. Yes, we did.

3 Q. And what did you talk about?

4 A. Specifically, I spoke about the tattoo he has on his
5 forearm, which consisted of three Indian heads.

6 Q. Did you ask him about who those Indian heads were?

7 A. Yes, sir.

8 Q. What did he say?

9 A. He addressed one as T-top. He addressed the other one as
10 Shotgun. And then he addressed one as himself.

11 Q. And did he say where he was going?

12 A. He said he was going to the streets in El Paso.

13 Q. Did you ask him what he was gonna do when he got there?

14 A. I believe I asked him when he hit the streets who he was
15 gonna report to.

16 Q. Now, was that in context of which probation officer is he
17 reporting to or which gang member is he gonna be reporting to?

18 A. Which gang member. Usually, an individual that's -- has
19 some gang affiliations, if they are leaving, I'll ask them --
20 or if they're arriving to our institution, I will ask them who
21 are they going to report to. Pretty much to establish their
22 rank structure.

23 Q. And did he answer who he was going to report to?

24 A. He said he wouldn't report to anybody. That they would
25 report to him.

1 Q. Did you talk to him about, um, getting out of the gang?

2 A. Yeah, I did state -- I mean, I said -- he was kind of a
3 younger fellow and he's already spent this much time locked up,
4 if he considered stepping away from it.

5 Q. What did he say in response?

6 A. He replied it's -- it's too late. It's already done.

7 Q. Did you prepare a self-admission form for the defendant to
8 sign that day?

9 A. Yes, I did.

10 Q. Did you have that form prepared in advance?

11 A. Partially.

12 Q. I'm showing you what's been marked as Government's Exhibit
13 34. Do you recognize Government's Exhibit 34?

14 A. Yes, I do, sir.

15 Q. And is this the self-admission form you prepared?

16 A. Yes, it is. Well, it was -- yes, it was prepared by our
17 office.

18 Q. Okay. What parts of the form were prepared in advance of
19 your interview?

20 A. The inmate's name. The individual's name. The
21 individual's register number. And the gang which he is
22 affiliated with.

23 Q. Okay. Um, why is it that you prepare these self-admission
24 forms?

25 A. These are -- this is part of the criteria for the BOP

1 validation process for security threat groups. This is one of
2 the elements, the self-admission --

3 Q. So this helps you identify -- pardon me. So this helps you
4 identify gangs and gang members?

5 A. Yes, sir.

6 Q. Did the defendant -- did the defendant sign this particular
7 self-admission form?

8 A. Yes, he did, sir.

9 Q. And is this his signature right here?

10 A. Yes, sir.

11 Q. And did he write in that he had been a member of this group
12 since 1990?

13 A. No, sir.

14 Q. Who wrote that in?

15 A. My staff wrote that in.

16 Q. Okay. And why did they write that in?

17 A. This is information that he relayed to us.

18 Q. And how about this, did he write that he currently held the
19 rank of lieutenant?

20 A. No, he did not write that.

21 Q. Is that also what your staff wrote in?

22 A. Yes, that's what he stated. That's what my staff wrote in.

23 Q. And whose signature is this right here?

24 A. That's my signature, sir.

25 Q. All right. And were you a witness of him signing this?

1 A. Yes, I was.

2 Q. Now, the admittance of membership on the form states that
3 the defendant hereby signs the statement of his own free will
4 without promises or assurances. And does hereby admit that he
5 is a current and active member of the BA. Did you tell him
6 that he had to fill out this form?

7 A. No, sir.

8 Q. Did you ask him if he would fill it out?

9 A. Yes, sir.

10 Q. All right. And what would have happened if he did not fill
11 out this form?

12 A. There would have been no negative action taken.

13 Q. What would have happened if he didn't want to talk to you?

14 A. Same thing. No negative action, sir.

15 Q. Has it happened in your past experience that inmates take
16 that course of action?

17 A. Yes, sir.

18 Q. And -- and if they're in this discharge unit of your
19 facility and they decide not to talk to you, what happens to
20 these individuals?

21 A. They go on with their regular business, sir.

22 Q. Now, I note that your -- pardon me. That -- I note that
23 the Government's Exhibit 34 states that this was signed on
24 September 21, 2008, at approximately 12:30 p.m. Is that
25 correct? Can you see that?

1 A. Yes, sir.

2 Q. So that's right after lunch, correct?

3 A. Yes, sir.

4 THE COURT: Can -- can I see that again? I have a
5 question. It says 2008?

6 THE WITNESS: Yes. I'm gonna say that's gonna be a --
7 that has to be a typographical error, sir. That should have
8 been 2010.

9 Q. (By Mr. Skaret) You're talking about right here?

10 A. Yes, sir.

11 Q. Is that also a typographical error under the inmate's
12 signature where it says September 21, 2008?

13 A. Yes, sir, that should be '10.

14 Q. Now, at the date on the top of the memo or the
15 self-admission form, do you see here September 21, 2010?

16 A. That's the appropriate date, sir.

17 Q. Is it safe to say that this is a form that's refilled as
18 you use it or as your staff uses it?

19 A. Yes, sir.

20 Q. So he signs and, basically, dates this form September 21,
21 12:30. I'd like to bring your attention to Exhibit 31, which
22 we've already looked at. By looking at this record, can you
23 tell what time of day on September 21st that the defendant was
24 keyed out of the facility?

25 A. Yes, it shows that he was keyed out of the facility on

1 September 21, 2010 at 1:15.

2 Q. Is that here 13:15?

3 A. That 13:15, sir.

4 Q. So that's 1:15 in the afternoon?

5 A. Yes, sir.

6 Q. Based on your exit interviews that you've conducted in the
7 past, have you ever kept an inmate in past their release date
8 based on what they say in an exit interview?

9 A. No, sir.

10 Q. Was the defendant in restraints at the time?

11 A. No, he was not.

12 Q. Not in handcuffs?

13 A. Not in handcuffs. Not in leg irons. Nothing.

14 Q. Were you wearing a gun?

15 A. No, sir.

16 Q. How about any other weapon?

17 A. No, sir.

18 Q. Did you make the defendant any promises?

19 A. No, sir.

20 Q. Did you make any false statements to the defendant?

21 A. No, sir.

22 Q. After the interview, you wrote up a report. Is that
23 correct?

24 A. Yes, I did.

25 Q. And why did you write that report?

1 A. Well, after the information that was attained through that
2 exit interview, I felt it was pertinent that -- I felt it was
3 pertinent to this case.

4 Q. Who did you send that memo to?

5 A. I sent it to an FBI agent. I believe I sent it to Special
6 Agent Samuels.

7 Q. And is Special Agent Samuels located in El Paso?

8 A. Yes.

9 Q. And why did you -- let me ask you. Before the exit
10 interview, were you planning on sending this information to the
11 FBI?

12 A. No, sir.

13 Q. Why did you change your mind afterward?

14 A. Because the information that we did gather during that exit
15 interview -- felt it was substantial information. It was
16 pertinent to the group -- to this incident that took place.

17 Q. Did the FBI request that you do this interview?

18 A. No, they did not.

19 Q. Did anyone from the U.S. Attorney's Office or Department of
20 Justice request that you do this interview?

21 A. No, sir.

22 MR. SKARET: That's all, Your Honor. Thank you.

23 THE COURT: You may proceed, Mr. Foster.

24

25

CROSS-EXAMINATION

BY MR. FOSTER:

Q. Mr. Galindo, you were aware of the FBI investigation for quite sometime, weren't you, before that, before your interview?

A. Yes, I was.

Q. In fact you were listening to the phone calls that were being made on the cell phone in Carlos Pereya's cell.

A. Yes, sir.

Q. And you were aware that there was at least one phone call there where Mr. Renteria was on that phone?

A. Yes, sir.

Q. And you were aware that Mr. Renteria was being investigated as part of this case that's been filed on this indictment in this case, weren't you?

A. Yes, sir.

Q. And when you asked him questions, you were aware that the FBI was investigating his role in the Aztecs, weren't you?

A. Yes, sir.

Q. So when you conducted the interview and started asking him questions about who he was reporting to and his rank and leadership, you were fully aware of the FBI's investigation into that matter as well.

A. As far as to his rank within the organization, no, sir.

Q. Wouldn't that be part of their investigation as to his

1 role?

2 A. Maybe what his role was, not necessarily what his rank is
3 within the organization.

4 Q. That same day you prepared a memo and sent it right off to
5 the FBI, didn't you?

6 A. I called and I advised them, seeing if they were interested
7 in it. Because I -- I thought it was pertinent to their case.

8 Q. While the exit interview is normal in your business,
9 wasn't -- isn't it true the purpose of your questioning was to
10 elicit information that could be used in the criminal
11 investigation?

12 A. No, sir.

13 Q. So you-all normally ask about a person's rank?

14 A. Yes, I do.

15 Q. You normally ask where they're going to -- who they were
16 going to be reporting to?

17 A. Yes, I do.

18 Q. And you're not talking about the probation officer or --

19 A. No, I'm not talking about the probation officer.

20 THE COURT: Can I just ask -- wait until he finishes
21 his question before you answer because this gentleman --

22 THE WITNESS: How's that again?

23 THE COURT: Wait till he finishes his question before
24 you start your answer.

25 THE WITNESS: Okay.

1 Q. (By Mr. Foster) I noticed in your memo that you said that
2 Mr. Renteria -- said that he spent three years in the Texas
3 Department of Criminal Justice. Is that right?

4 A. Yes, sir.

5 Q. You know, I've been looking over Mr. Renteria's criminal
6 history for quite sometime, and I can't see where he's ever
7 spent any time in the Texas Department of Criminal Justice.
8 Were you able to find that on his criminal history?

9 A. That was off of his statement, sir.

10 Q. So you're saying that he would misstate where he's spent
11 prison time in this exit interview?

12 A. Again, these are statements that he made, sir.

13 Q. So if that information is not true, then the statement is
14 unreliable, isn't it?

15 A. I can only take that man at his word.

16 Q. I noticed when you were asked questions about when
17 Mr. Renteria got to the facility and left, that you first said
18 he got to the facility in early August. Isn't that correct?

19 A. In August, yes, sir.

20 Q. Well, I wrote down the "words early" August on my notes.
21 Are you disagreeing that you said early August?

22 A. Well, I can't say -- I don't remember exactly which date.
23 But it would have been early August.

24 Q. And, actually, you were only able to testify to the
25 dates when you were led through it by the prosecuting attorney.

1 A. How's that again?

2 Q. You were only actually able to testify to the dates when
3 you were led through that with an exhibit with the prosecuting
4 attorney.

5 A. I was looking at the exhibit. And I was reading Sentry
6 documentation, the dates that it reflected, the exact dates
7 that he arrived, the exact dates that he left.

8 Q. As I said, you were only able to go through those dates
9 when you were given that information through an exhibit through
10 the prosecuting attorney. Is that correct?

11 A. Yes, sir.

12 Q. What staff members wrote the information on that form? Who
13 were the staff members that wrote the information, Lieutenant,
14 that he had been in Barrio Azteca since 1990?

15 A. It's gonna be an intelligence research specialist, Special
16 Investigative Office.

17 Q. Do you know their name?

18 A. Robert Niland.

19 Q. Was he actually in the room?

20 A. Yes, he was.

21 Q. Did he write that information on the form before or after
22 it was signed by Mr. Renteria?

23 A. It was in Renteria's presence.

24 Q. Did he write the information on the form before or after
25 Mr. Renteria signed it?

1 A. The written -- the "1990s" and the "lieutenant" was written
2 in Renteria's presence.

3 MR. FOSTER: Judge -- well --

4 Q. Let me ask you. You don't remember whether it was written
5 on the form before or after, do you?

6 A. It was written while he was there, sir.

7 Q. Before or after he signed it, sir?

8 A. Before he signed it.

9 Q. And you remember that clearly?

10 A. Yes, sir. I mean. . .

11 Q. Why does it take you so long to answer that question?

12 A. I was listening to it the way you were reading it -- the
13 way you were saying it, sir.

14 Q. Your interviews are recorded.

15 A. No, they're not.

16 Q. They're not recorded. You do not have cameras in the room,
17 recording or audio equipment, recording these interviews?

18 A. No, I do not.

19 Q. So we are left with your particular recollection of this
20 event. Is that correct?

21 A. And the documentation, sir.

22 Q. The documentation that may or may not have been written at
23 the time about being a lieutenant and being there since 1990.
24 That may or may not have been written before he signed it or
25 not. We're left with your recollection of that event. Is that

1 correct?

2 A. Let me -- can I explain?

3 Q. Why not?

4 A. Okay. That self-admission form, just like explained
5 before, the inmate's name, the inmate's register number and his
6 gang affiliation, that is put on there prior. The inmate is
7 interviewed. He's asked these questions. As he answers the
8 questions, if he's done any other time or how long he's been
9 affiliated with the group, that's written in at that time.
10 What his rank is with the group, that's written in at that
11 time.

12 After those -- after those lines are filled in, after
13 that information is put on the sheet, the sheet is turned to
14 him and he is given the option to sign.

15 THE COURT: Can I ask a question? Could the
16 Government put that form back up on the Elmo so I can be
17 looking at it as he's describing?

18 MR. SKARET: Yes, Your Honor.

19 THE COURT: Thank you. Okay. You may proceed.

20 Q. (By Mr. Foster) Are you finished explaining or. . .

21 A. Yes, sir.

22 Q. Okay. When was the last time you reviewed your memos in
23 this form?

24 A. My memor- -- earlier today, sir.

25 Q. Mr. Galindo, if you had not reviewed those memos and forms,

1 would you actually have an independent recollection of what
2 went on in this interview?

3 A. To an extent, sir.

4 Q. Some.

5 A. Some.

6 Q. Did you have any other contact with Mr. Renteria when he
7 was in Beaumont?

8 A. As I had expressed, during weekly rounds in the special
9 housing unit.

10 Q. Did you ever speak to him?

11 A. Casual conversation as to -- if there was anything he
12 needed. If he was okay. If he had any complaints.

13 Q. In speaking to him, did you ever talk to him about what you
14 thought was going to happen to him once he got outside?

15 A. No, sir.

16 Q. Never teased him?

17 A. No, sir.

18 Q. Never ridiculed him?

19 A. No, sir.

20 Q. When you make those rounds, are there cameras recording
21 those events as well?

22 A. Yes, sir.

23 Q. Is there audio as well?

24 A. No, sir.

25 Q. So if anything was said, nobody would know it but you or

1 him. Is that correct?

2 A. Well, there was a group of individuals. The administration
3 of the institution, other department heads, are making these
4 rounds at the same time I was.

5 Q. With you or. . .

6 A. Yes, with me.

7 Q. Like in a group?

8 A. Yes, sir.

9 Q. You and the administration go out and make rounds as a
10 group?

11 A. Yes, sir.

12 MR. FOSTER: I will pass the witness.

13 MR. SKARET: No questions, Your Honor.

14 THE COURT: You may step down. You may proceed.

15 MR. SKARET: Your Honor, ordinarily a defendant's
16 statements to any sort of law enforcement officer can be
17 admissible in a case in chief of the Government only if it's --
18 the statements were made voluntarily and in accordance with
19 Miranda v. Arizona. With regard to Miranda, the Supreme Court
20 recently held in Howes v. Fields, that's 132 Supreme Court
21 1811, 2012, that the warnings are not automatically required
22 when an inmate is questioned while in prison regarding other
23 criminal conduct. As discussed below, the trial court must
24 assess all the features of the interrogation to determine if it
25 carried the same inherently coercive pressures as the type of

1 station house questioning that was envisioned in Miranda.

2 Because it appears that was there was nothing
3 inherently coercive about the exit interview, Government's
4 position that the defendant was not in custody for the purposes
5 of Miranda and, therefore, the warnings were not required. Now
6 with respect to custody, when interrogating.

7 THE COURT: Let me ask you a question. On the Howes
8 versus Fields case, does it make a difference that that's
9 actually a habeas case?

10 MR. SKARET: I don't believe so, Your Honor. The
11 same -- you know, in that case the court was taking a look at
12 the same type of coercive environment. And here, like in
13 Fields, the defendant was taken from the general population
14 unit. In Fields, as I recall from the facts, when the -- when
15 the case was finished, the defendant in that case was sent back
16 to general population.

17 Here, we have even less coercive environment because
18 the defendant was taken to general population, given additional
19 freedoms that other inmates did not have, such as changes of
20 clothes and getting bus money, and, basically, getting his
21 ticket out of there. And unlike in Fields, the defendant here
22 was not returned to the general population. He was sent right
23 out the door, approximately, 45 minutes after the interview.

24 THE COURT: All right. Go ahead.

25 MR. SKARET: So based on that, Your Honor, from the

1 point of view from the defendant and from the point of view of
2 Lieutenant Galindo, the defendant was on his way out,
3 regardless of what was going to happen that particular day.

4 Additionally, the fact that the defendant was not
5 restrained and that the interview lasted roughly ten to 15
6 minutes, both weighed heavily against defining of custody for
7 the purposes of Miranda.

8 Taking all of the objective circumstances of the exit
9 interview, the level of coercion, which appears to be about
10 none, if any, clearly did not rise to the level of station
11 house type of interrogation upon arrest that the Miranda court
12 envisioned. Therefore, it's the Government's position that the
13 defendant was not in custody during the exit interview. And,
14 as such, the warnings were not required.

15 Now, because he was not in custody, Miranda does not
16 bar the admission of the statement to Lieutenant Galindo for
17 this purpose. We wanted to request the Court make a finding of
18 voluntariness on the issue. Now, of course, under the due
19 process clause, any statement that's offered in this court must
20 be made voluntarily. And under Colorado v. Connelly, a
21 statement is only involuntary if the product -- pardon me, if
22 the statement is a product of government misconduct.

23 Now, through the years, as the Court is likely aware,
24 there have been many different factors that have gone into this
25 Colorado v. Connelly. Um, this -- this, um. . .

1 THE COURT: Test.

2 MR. SKARET: Yes. This test -- thank you, Your Honor.
3 Things like the subject's capacity to resist that pressure, the
4 location of the questioning, any promises of leniency that
5 might have led to a statement, appeals to the defendant's
6 emotions, trickery, false or misleading statements, the age or
7 the youth of the person, the physical and mental condition of
8 the person at the time.

9 Well, here, we heard that the defendant may have been
10 nervous at the time of his -- of his exit interview. And, as
11 the witness stated, this is a common occurrence. The defendant
12 had been locked up since the late '80s and was heading out onto
13 the street for the first time in decades.

14 With respect to the defendant's capacity to resist,
15 um, you know, he was in a position where he understood Bureau
16 of Prisons rules. He understood, um, you know, his -- whether
17 he needed to -- to give this information. The self-admission
18 form itself said that the admission was voluntary, was not a
19 product of coercion.

20 With respect to the location, he was not in leg irons
21 or shackles or handcuffs. He was away from his cell, away from
22 the general population. And, in fact, he had already started
23 the discharge process, changing his clothes, um, and almost
24 literally on his way out the door.

25 The witness stated he made no promises to the

1 defendant. He did not appeal to emotion. He made no false
2 statements. The witness stated that the defendant's mental
3 condition appeared to be fine. It was a ten- to 15-minute
4 chat. He was not in physical restraints. And probably the
5 most important point is that he was released right after the
6 interview.

7 For all these reasons, the Government believes that
8 Miranda does not apply because the defendant was not in
9 custody. And that the statements to Lieutenant Galindo were
10 voluntarily made under the due process clause.

11 THE COURT: Mr. Foster.

12 MR. FOSTER: I will be quick, Judge. I would like to
13 start off with one of the very first things that Lieutenant
14 Galindo said. Is that he's interested in the security of the
15 institution. Mr. Galindo was fully aware of this
16 investigation, was in on listening to the telephone calls.
17 That's part of their standard operating procedures when you
18 have telephone situations inside the Bureau of Prisons, inside
19 the prisons. He was fully aware of the investigation going on.
20 And knew exactly what was gonna happen.

21 Asking about the defendant's rank and who he's going
22 to report to has nothing to do with the security of the
23 institution since -- especially, since the defendant is almost
24 out the door. I would submit to you that, um, Mr. Galindo was
25 probably trying to do a good deed. And this is nothing more

1 than a subterfuge for what he could not do directly. He did it
2 indirectly by using something that was at hand and available
3 that he should have because he was asking questions that led to
4 the investigation that was already underway, that he was fully
5 aware of. And he is a law enforcement official. And yet, he
6 still does not do this. He used a different method than what
7 would normally be required by the code of criminal procedure.

8 He -- my client -- talked about capacity to resist.
9 My client was taken at midnight -- just after midnight from
10 Pollock, packed on a bus, got to Beaumont at 4:15 in the
11 morning. Why was he sent to Beaumont? Mr. Galindo was at
12 Beaumont. They could have sent him to any number of
13 penitentiaries that were a lot closer to the release at El
14 Paso.

15 THE COURT: Okay. But here's the issue. Um, I -- I
16 hear what you are saying about the person involved in asking
17 him the questions. But, if you look at Howell(sic) versus
18 Fields, how is he -- how -- how is this not a situation where,
19 um, as Mr. Skaret mentions, that he's even in less of a
20 custodial situation than the gentlemen was in Howe -- Howes
21 versus Fields?

22 MR. FOSTER: It may have been in less of a custodial
23 interrogation situation than the gentleman in Howes v. Fields.
24 However, he was still in custody. It is --

25 THE COURT: And so was the gentleman in Howell versus

1 Field. That he was being questioned by sheriffs and he was
2 returned to his cell. And yet that was proper.

3 MR. FOSTER: That was about other criminal conduct.
4 Judge, this is not about other criminal conduct. That -- there
5 has been a distinction in the courts in the cases about -- even
6 where a person is in custody has an attorney on one case, and
7 law enforcement has information about another case, totally
8 separate, where they can go and question that person without
9 even going to their attorney and asking permission. That's
10 been a distinction. That's called -- that's the other criminal
11 conduct concept.

12 In this case, Mr. Galindo is not asking him about
13 other criminal conduct. He's asking about the investigation
14 that he's already aware of and has been a part of.

15 THE COURT: Well, isn't that what the sheriffs were
16 doing? The sheriff's deputies were involved in the sexual --
17 the allegations of sexual abuse of a minor. It wasn't prison
18 officials that were asking him questions. They brought in the
19 sheriff's officials.

20 MR. FOSTER: Yes, Judge. They brought in somebody
21 else. Someone else in another investigation that was about
22 as -- I recall that was not the case of which he was confined
23 on.

24 THE COURT: Well, this wasn't the case Mr. Renteria
25 was confined on either.

1 MR. FOSTER: But, Mr. Galindo had already been a part
2 of this investigation. He was, essentially, an investigator in
3 this case. And he used his position, the situation with
4 Mr. Renteria being at his facility, which may have been by
5 design or not, I don't know. I don't think anyone's going to
6 testify to that.

7 And he used that exit interview situation to obtain
8 information that he would not have done, that he could have
9 done as a law enforcement official reading his Miranda rights
10 and getting a -- a waiver. And instead, he used another
11 situation to inquire the same information that he would
12 otherwise.

13 In other words, he did incorrectly what he could not
14 or maybe should have tried to do directly. Mr. Renteria was
15 already the focus of the investigation that Mr. Galindo was
16 part of.

17 THE COURT: All right.

18 MR. FOSTER: That's all, Judge.

19 THE COURT: Any response before I rule?

20 MR. SKARET: Your Honor, the Government's position
21 would be the same even if Special Agent Samantha Mikeska was
22 flown to Beaumont to take this interview herself. Because the
23 questioning was not about and did not relate to the crime for
24 which he was incarcerated, starting from, I believe, the 2002
25 or 2003. So whether it was Lieutenant Galindo doing the

1 questioning or anybody else, we don't believe that changes the
2 analysis under *Howes v. Fields*.

3 THE COURT: All right. Based on the information and
4 the testimony of Lieutenant Galindo, the Court will find that
5 the statement was voluntary. I think that the case law, as
6 outlined in *Howes v. Fields*, as well as the cases that it
7 cites, including *Schatzer* and *Perkins*, um, I -- I think the
8 quote exactly is that the issue -- the questions revolves upon
9 and depends upon whether the incarceration excerpts a coercive
10 pressure that *Miranda* was designed to guard against. The
11 danger of coercion that results from the interaction of custody
12 and official interrogation. The mere fact that he was being
13 questioned by a government official is not sufficient. And the
14 Court does not believe that it rises to the level of a
15 custodial interrogation. Or that *Miranda* was at play here. So
16 the Court will find it to be voluntary.

17 Anything further before we bring in the jury?

18 MR. SKARET: One moment, Your Honor.

19 THE COURT: Okay.

20 MR. SKARET: Nothing, Your Honor.

21 MR. FOSTER: Judge, just would note the defense's
22 exception to the rulings for the record, please.

23 THE COURT: So noted. So noted for the record. All
24 right. Um, then let's get ready to bring in the jury and
25 proceed. You may bring in your witness again. Let's take just

1 a real short recess. Five minutes. Let's get ready.

2 (Recess.)

3 COURTROOM DEPUTY: Court is back in session.

4 THE COURT: You may be seated. Ready for the jury?

5 MR. SKARET: Yes, Your Honor.

6 MR. FOSTER: Ready to proceed, Judge.

7 (Jury enters courtroom.)

8 THE COURT: You may be seated.

9 CROSS-EXAMINATION

10 BY MR. FOSTER:

11 Q. Good morning, Mr. Mendoza. My name is Scott Foster. I'm
12 going to ask you some questions. I'm going to ask you
13 questions from testimony yesterday. Let's start off with your
14 criminal history. It goes back quite a ways before you were an
15 adult.

16 A. Yes, sir.

17 Q. I have -- I see a burglary of a building.

18 A. Yes, sir.

19 Q. Burglary of vehicle?

20 A. Yes, sir.

21 Q. Unauthorized use of motorcycle?

22 A. Yes, sir.

23 Q. What year was that?

24 A. I don't remember, sir.

25 Q. Was that the one that was rolled into the other cases you

1 got ten years on in '99?

2 A. Yes, sir.

3 Q. A marijuana case. Was that possession of marijuana? Was
4 that a misdemeanor or felony?

5 A. Misdemeanor.

6 Q. Evading arrest?

7 A. Yes, sir.

8 Q. Unlawful carrying of weapon?

9 A. Yes, sir.

10 Q. What type of weapon?

11 A. 380.

12 Q. Semi-automatic pistol?

13 A. Yes, sir.

14 Q. Engaging in organized criminal activity. Usually that's a
15 state charge.

16 A. Yes, sir.

17 Q. And usually with those, there's an underlying charge that
18 says you engaged with more than one person by doing something.
19 What was the underlying charge?

20 A. Um, I think that was for the for the Ag assaults; wasn't
21 it?

22 Q. Aggravated assault deadly weapon and aggravated assault on
23 public servants?

24 A. Yes, sir.

25 Q. And then I show in December of 2010 you were arrested on a

1 charge of unlawful possession of firearm by a felon?

2 A. Yes, sir.

3 Q. What happened with that case?

4 A. I still got it pending.

5 Q. So state or federal?

6 A. State, sir.

7 Q. Basically, you signed a deal where you're going to be
8 looking at 240 months or 20 years; is that correct?

9 A. Yes, sir.

10 Q. And if you do really good here, you're hoping you will get
11 reduction for that time, right?

12 A. Yes, sir.

13 Q. They also -- in part of that deal is they wouldn't use your
14 prior convictions to seek any type of enhancements, didn't
15 they?

16 A. Yes, sir.

17 Q. It looks like you've got about three separate priors where
18 guns were used, or they're a part of that, doesn't it?

19 A. Yes, sir.

20 Q. You always carry a gun?

21 A. No, sir.

22 Q. Were you known for being able to traffic in guns or get
23 guns?

24 A. No, sir.

25 Q. In your plea of guilty in this case, there were certain

1 things in the factual basis that you pled guilty to. I believe
2 one of them was the use of violence or threats to advance
3 Barrio Azteca activities; is that correct?

4 A. Yes, sir.

5 Q. Collected quota by extorting drug dealers in El Paso?

6 A. Yes, sir.

7 Q. Importing heroin and cocaine?

8 A. Yes, sir.

9 Q. And you actually had not just a conspiracy, but a direct on
10 each of those activities; isn't that true?

11 A. Yes, sir.

12 Q. I noticed you had a number of situations when you were in
13 Texas prisons with disciplinary reports. You got disciplined
14 for fighting?

15 A. Yes, sir.

16 Q. You've -- possession of contraband?

17 A. Yes, sir.

18 Q. In prison, what is contraband?

19 A. It could be anything from writing pens to anything that
20 you're not supposed to have in prison.

21 Q. It could be drugs?

22 A. Yes, sir.

23 Q. Weapons?

24 A. Yes, sir.

25 Q. Telephones?

1 A. Yes, sir.

2 Q. Magazines that are not --

3 A. Yes, sir.

4 Q. -- on the approved list?

5 A. Yes, sir.

6 Q. Anything that you might have in your cell that you didn't
7 get from the prison officials or commissary?

8 A. Yes, sir.

9 Q. Let's see, you had a specific discipline for possession of
10 weapons?

11 A. Yes, sir.

12 Q. What type of weapons did you possess inside the prison?

13 A. Um, shanks.

14 Q. When you talk about shanks, what do you mean by shanks?

15 A. Anything sharpened into a point to stab somebody with.

16 Q. So you were sent to Coffield prison at one time, I
17 understand; is that right?

18 A. Yes, sir.

19 Q. That's where you were made the keeper of the cell phones?

20 A. Yes, sir.

21 Q. Who made the decision to make you keeper of cell phones?

22 Is that something someone says this is what you do? Or do you
23 say I volunteer?

24 A. It was just -- I would take care of them for certain
25 people.

1 Q. Okay. These people know that you had all these discipline
2 problems?

3 A. Yes, sir.

4 Q. Coffield, that's where the decisions are made to put
5 someone on a green light list, isn't it?

6 A. Yes, sir.

7 Q. That decision can only be affirmed there, correct?

8 A. No, sir.

9 Q. You're saying anybody else can put someone on a green light
10 list?

11 A. Yes, sir.

12 Q. When someone's put on a green light list, what does that
13 mean for them?

14 A. That you have to get them. You could either stab them or
15 kill them, anything. Beat them up.

16 Q. You ever killed anyone on a green light list?

17 A. No, sir.

18 Q. Ever with anybody that killed anybody on a green light
19 list?

20 A. No, sir.

21 Q. You've got a big green light list, right?

22 A. Yes, sir.

23 Q. Sounds like the BA are just killing people right and left.
24 Do you know anybody that was killed on a green light list?

25 A. Yes, sir.

1 Q. How many?

2 A. Maybe one.

3 Q. Now, you testified a lot about some phone calls between
4 Galindo and Zuniga. What's Zuniga's rank?

5 A. Um, lieutenant.

6 Q. What's Galindo's rank?

7 A. Top lieutenant.

8 Q. It's like first lieutenant?

9 A. Yes, sir.

10 Q. Okay. The lieutenant of lieutenants. Are you sure he
11 wasn't a sergeant?

12 A. No, sir.

13 Q. And did you say that Little Angel was always lieutenant?

14 A. Yes, sir.

15 Q. Are you sure about his rank?

16 A. Yes, sir.

17 Q. Eventually, Little Angelillo was arrested, right?

18 A. Yes, sir.

19 Q. Do you remember when?

20 A. No, sir, I don't remember on what time. But I think it was
21 in 2010.

22 Q. Okay. That's -- there's 12 months there. Can you narrow
23 it down, spring, summer, winter, fall?

24 A. Maybe around June.

25 Q. And you were told to report to Manny and Peewee; is that

1 correct?

2 A. Yes, sir.

3 Q. When you got out, what was their rank?

4 A. Sir?

5 Q. What was their rank, Manny and Peewee?

6 A. They didn't have rank at that time.

7 Q. Did they get rank?

8 A. Yes, sir.

9 Q. What rank did they get?

10 A. Sergeants.

11 Q. Both of them?

12 A. Yes, sir.

13 Q. Who gave them rank?

14 A. Shotgun.

15 Q. Did you verify that?

16 A. Sir?

17 Q. Did you verify that?

18 A. No, sir.

19 Q. I thought you were supposed to verify that stuff.

20 A. Yes, sir.

21 Q. Now, there was a discussion about charging members quota.
22 Was that all members paid quota or if they were selling or if
23 they were selling drugs that were outside of the BA drug
24 pipeline?

25 A. No, sir, anybody who was selling drugs.

1 Q. Everybody who sold drugs?

2 A. Yes, sir.

3 Q. How much was quota?

4 A. Depending on how much they sold.

5 Q. Was there a percentage?

6 A. Yes, sir.

7 Q. What was the percentage?

8 A. Ten percent.

9 Q. And you found that out from Chucky?

10 A. Yes, sir.

11 Q. What was Chucky's rank?

12 A. He didn't -- had no rank, sir.

13 Q. And you said Chucky found out from Manny?

14 A. Yes, sir.

15 Q. How do you know Chucky found out from Manny?

16 A. He told me, sir.

17 Q. Did you verify it?

18 A. No, sir.

19 Q. And who did Manny get his orders from?

20 A. I don't know, sir.

21 Q. Yesterday there was a small group photo that is Exhibit
22 1-B.

23 THE COURT: Displayed to the jury?

24 MR. FOSTER: Yes, Judge, it's been admitted. Jury's
25 seen it.

1 Q. (By Mr. Foster) You identified people in that photo?

2 A. Yes, sir.

3 Q. You identified two people in that photo?

4 A. Yes, sir.

5 Q. Can you identify the three gentlemen on the left side of
6 that photo?

7 A. No, sir.

8 Q. How about the guy in the black T-shirt, TX on it, can you
9 identify him?

10 A. No, sir.

11 Q. The woman in the background just between her and who you
12 identified as Cano?

13 A. No, sir.

14 Q. Do you know where that photo was taken?

15 A. No, sir.

16 Q. Were you there when that was taken?

17 A. No, sir.

18 Q. Thank you. You testified that you went to a McDonald's
19 with Chucky?

20 A. Yes, sir.

21 Q. Before that you went out with him picking up quota?

22 A. Yes, sir.

23 Q. Did you count the money that Chucky had?

24 A. No, sir.

25 Q. So, basically, you're relying on what Chucky told you as to

1 how much there was or guessing?

2 A. Just guessing what I saw him counting.

3 Q. You're guessing from what you saw him count?

4 A. Yes, sir.

5 Q. And Chucky went to another vehicle?

6 A. Yes, sir.

7 Q. And sat in another vehicle with somebody else?

8 A. Yes, sir.

9 Q. You testified that was my client, Ramon Renteria?

10 A. Yes, sir.

11 Q. Did you see him?

12 A. Yes, sir.

13 Q. Are did you know who he was at that time?

14 A. Yes, sir.

15 Q. So you had met him before?

16 A. No, sir.

17 Q. Seen pictures of him before?

18 A. Yes, sir.

19 Q. Did you verify that Chucky actually gave him the money?

20 A. No, sir.

21 Q. So when you say that Chucky gave him money, you only know
22 that from what someone else told you?

23 A. Yes, sir.

24 Q. Now, you said you got orders to shoot up a Sureños house;
25 is that correct?

1 A. Yes, sir.

2 Q. You said the orders came from Manny?

3 A. Yes, sir.

4 Q. And do you know where Manny -- do you know where Manny got
5 his orders?

6 A. No, sir.

7 Q. And if you testified to where Manny got his orders, you're
8 only assuming, aren't you?

9 A. Yes, sir.

10 Q. Isn't it possible that Manny might be issuing orders in
11 someone else's name to make himself look legitimate?

12 A. No, sir.

13 Q. Did you verify that?

14 A. No, sir.

15 Q. Did you verify the orders?

16 A. No, sir.

17 Q. So you went out with guns blazing or hoping to blaze, but
18 they didn't, without verifying those orders?

19 A. Yes, sir.

20 Q. You testified that Silent told you to be a bridge in the El
21 Paso County Jail or to the El Paso County Jail?

22 A. To the El Paso County Jail.

23 Q. Who is Silent again?

24 A. Lieutenant.

25 Q. I'm sorry? I didn't hear you.

1 A. He's a lieutenant.

2 Q. What's his name?

3 A. Hector Galindo.

4 Q. He told you directly?

5 A. Yes, sir.

6 Q. And when you were shipping drugs to the -- in the Pond's
7 cold cream -- remember you talked about that?

8 A. Yes, sir.

9 Q. Who were the addresses given to you by?

10 A. Cano.

11 Q. Cano and who else?

12 A. Manny.

13 Q. Anyone else?

14 A. No, sir.

15 Q. And you said that there were none of those shipments after
16 Manny -- in other words after Manny -- when Manny was no longer
17 in charge, there were no other shipments like that?

18 A. No, sir.

19 Q. When you came into the BA originally, you said you had to
20 assault three people in jail.

21 A. I didn't have to, but I did.

22 Q. That was when you were an esquina?

23 A. Yes, sir.

24 Q. And that was your word?

25 A. Yes, sir.

1 Q. That's the way you proved yourself?

2 A. Yes, sir.

3 Q. Did you do it with your hands or shank?

4 A. My hands, sir.

5 Q. All three of them?

6 A. Yes, sir.

7 Q. Did you break any bones?

8 A. No, sir.

9 Q. At the beginning of your testimony yesterday, did you say
10 that there were eight captains in the BA?

11 A. I don't know how many there are, sir.

12 Q. You also said the money from selling drugs was sent to
13 Juarez?

14 A. Yes, sir.

15 Q. Who's in charge of Juarez?

16 A. Tablas.

17 MR. FOSTER: Pass the witness.

18 THE COURT: All right. Mr. Leal.

19 REDIRECT EXAMINATION

20 BY MR. LEAL:

21 Q. Mr. Mendoza, Mr. Foster asked you if it was possible Manny
22 would have given some order just to make himself look better
23 when it came to the shootout and you said no. Why is your
24 answer that, no?

25 A. Because there was somebody in charge.

1 Q. And who was in charge at the time?

2 A. Spooky.

3 Q. Mr. Foster asked you about verification and how you didn't
4 verify some things.

5 MR. LEAL: May we look at Government's Exhibit 20H-2.
6 It's been previously admitted in front of the jury. I would
7 like to go to page four.

8 THE COURT: All right.

9 Q. (By Mr. Leal) In this column we listened to yesterday that
10 I've put that blue square around, did you verify who was being
11 in charge of El Paso was Silent?

12 A. Yes, sir.

13 Q. Who was going to be in charge of El Paso with Silent?

14 A. Spooky.

15 Q. Is that what wound up happening?

16 A. Yes, sir.

17 MR. LEAL: Pass the witness.

18 THE COURT: Anything else?

19 MR. FOSTER: No, Judge, not at this time.

20 THE COURT: You may step down. Is he free to leave,
21 excused?

22 MR. LEAL: Yes, Your Honor.

23 MR. FOSTER: He's going to be in Central, in downtown.

24 THE COURT: Do you need him?

25 MR. FOSTER: It's a possibility I might want to recall

1 him. But I don't want to create a situation like the other
2 day.

3 THE COURT: Could the attorneys approach?

4 (Attorneys approach bench. Off record discussion.)

5 (Back on the record in open court.)

6 Government may call their next witness.

7 MR. SKARET: Your Honor, the Government calls
8 Lieutenant Fabian Galindo. If the Court would swear in the
9 witness, please?

10 THE COURT: I believe he was sworn previously.

11 Remember, you're still under oath.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: All right. Whenever you're ready.

14 FABIAN GALINDO, SWORN

15 DIRECT EXAMINATION

16 Q. Good morning. Please introduce yourself to the Court and
17 jury.

18 A. My name is Fabian Galindo. I'm a lieutenant with the
19 Federal Bureau of Prisons.

20 Q. And where is your duty station as a lieutenant with the
21 Bureau of Prisons?

22 A. United States Penitentiary in Beaumont, Texas.

23 Q. What do you do for the Bureau of Prisons at that facility?

24 A. I'm a lieutenant in the Special Investigative Office.

25 Q. And as a lieutenant in that office, what are your

1 day-to-day duties?

2 A. Day-to-day duties is threat assessments amongst the inmate
3 population, tracking security threat groups, which is gangs,
4 and conducting investigations on staff misconduct.

5 Q. In July of 2010, were you sent to work on detail at the El
6 Paso Field Division of the FBI to assist in a wire intercept of
7 a contraband cell phone belonging to Carlos Pereya at the U.S.
8 Penitentiary in Pollock, Louisiana?

9 A. Yes, sir, I was.

10 Q. What did you do at the FBI office to assist with that wire
11 intercept?

12 A. My assistance consisted of interpreting and translating any
13 Spanish calls that were made over that phone -- over that
14 contraband phone.

15 Q. Throughout your time in working in the Bureau of Prisons,
16 have you developed special language expertise with respect to
17 gangs?

18 A. I have been become familiar with slang used by several
19 different gangs, yes, sir.

20 Q. Did you work at the FBI Field Office until that particular
21 wire intercept went down?

22 A. Yes, I did, sir.

23 Q. Was that in August of 2010?

24 A. Yes, it was.

25 Q. When the wire went down, where did you go?

1 A. Once completion of that wire, I went back to my assignment
2 of USP Beaumont.

3 Q. Did there come a time in 2010 when a man named Ramon
4 Renteria arrived at your facility in Beaumont, Texas?

5 A. Yes, sir.

6 Q. I would like to show you Government's Exhibit 31.

7 MR. SKARET: It's admitted, Your Honor, if we may
8 publish this to the jury.

9 THE COURT: You may.

10 Q. (By Mr. Skaret) Do you recognize Government's Exhibit 31?

11 A. Yes, I do, sir.

12 Q. And what is it?

13 A. It's a Sentry document from our database that BOP uses --
14 the Bureau of Prisons uses.

15 Q. What type of information does a document like this record?

16 A. On -- this particular document is a PP37. It reflects
17 quarters assignment for the individual throughout his
18 incarceration.

19 Q. Now, you mentioned that an individual named Ramon Renteria
20 arrived at your facility in 2010. By looking at the document,
21 are you able to tell the jury when he arrived at that facility?

22 A. He arrived at the United States Penitentiary in Beaumont on
23 8-19-10 at, approximately, 4:57 in the morning.

24 Q. Now, in going through the columns on this particular
25 document, what does the BMP stand for?

1 A. The BMP is the facility. BMP would be United States
2 Penitentiary in Beaumont.

3 Q. How about this -- this next -- this next -- well, let's go
4 over to the next column, the assignment column. What does that
5 stand for?

6 A. That would be his quarters assignment, the unit assignment,
7 cell assignment, and then the bunk assignment.

8 Q. And then is there a description of that assignment?

9 A. Yes.

10 Q. To follow?

11 A. Yes, sir.

12 Q. And then there's a start date?

13 A. That's the date when he was assigned to those quarters.

14 Q. Which is --

15 A. And the time.

16 Q. Uh-huh. And then there's --

17 A. And then the -- the -- the date that he came out of those
18 quarters and the time that he came out of those quarters.

19 Q. Now, we see that there are two additional Beaumont entries
20 on this particular form. What's the purpose of those
21 additional entries?

22 A. In the special housing unit, we have 18-day cell rotations.
23 Every 18 days, at the maximum, every inmate gets moved from the
24 cell in which they are to prevent any compromise of the cell.

25 Q. Based on the information on Government Exhibit 31, are you

1 able to tell us when Ramon Renteria left the Beaumont facility?

2 A. Yes, sir.

3 Q. What date was that?

4 A. This reflects that he left USP Beaumont on September 21,
5 2010 at 13:15 hours.

6 Q. And is that the 13:15 you're referring to?

7 A. Yes, sir.

8 Q. And is that 1:15 in the afternoon?

9 A. 1:15 in afternoon, sir.

10 Q. By looking at Government Exhibit 31, are you able to tell
11 us where he came from when he got to Beaumont?

12 A. Before he got to Beaumont, we received him from United
13 States Penitentiary in Pollock, Louisiana.

14 Q. And would that be illustrated in the exhibit?

15 A. POL.

16 Q. POL. Right before the BMP?

17 A. Yes, sir.

18 Q. Okay. Now, based on Government Exhibit 31, it appears that
19 the man named Ramon Renteria spent, approximately, a month at
20 the facility in Beaumont. Is that correct?

21 A. Yes, sir, approximately.

22 Q. And during that month, did you have an opportunity to meet
23 an individual named Ramon Renteria?

24 A. Casually, sir.

25 Q. If you saw Ramon Renteria again, would you recognize him?

1 A. Yes, sir.

2 Q. Would you please point him out in the courtroom and
3 identify him as to where he's sitting and an article of
4 clothing that he is wearing?

5 A. He is sitting to my right. He's wearing, over here, brown
6 coat with a blue shirt.

7 MR. SKARET: Your Honor, would the report reflect
8 positive identification of the defendant Ramon Renteria?

9 THE COURT: It will so reflect.

10 Q. (By Mr. Skaret) Did you learn whether Ramon Renteria had a
11 nickname in your dealings with him?

12 A. Yes, sir.

13 Q. And what was that nickname?

14 A. Nickname was Spook.

15 Q. I'd like to take you to the last day of Mr. Renteria's
16 incarceration at Beaumont. According to Government's Exhibit
17 31 and your earlier testimony, that would be September 21,
18 2010. Do you remember seeing him that day?

19 A. Yes, sir.

20 Q. Where did you see him?

21 A. I saw him in the receiving and discharge area of the
22 institution.

23 Q. And why would he be in the discharge area of that
24 institution on that day?

25 A. He had completed his sentence. And he was being released

1 to the streets.

2 Q. Did you talk to him while he was in discharge?

3 A. Yes, I did.

4 Q. Approximately, how long did you talk to him?

5 A. Approximately, about 15 minutes.

6 Q. And did you talk to him about his tattoos that day?

7 A. Yes, I did.

8 Q. All right. Why?

9 A. Seeing what the significance of them were, sir.

10 Q. And did you notice any new tattoos?

11 A. Um, there was one significant that I remember that -- on a
12 forearm he had three Indian faces, three Indian heads on his
13 forearm.

14 Q. Did you ask him about those Indian heads?

15 A. Yes, I did.

16 Q. And what did he say about it?

17 A. He identified them as one of them was Shotgun. One of them
18 was T-top. And one of them was himself.

19 Q. Did you know or did you ask him where he was headed to
20 after he was being discharged?

21 A. Yes, sir. He said he was going to be coming back to the
22 streets in El Paso.

23 Q. Did you ask him about what he was going to do when he got
24 to El Paso?

25 A. I asked who he was going to report to when he got to the

1 streets.

2 Q. And in the context of that, were you referring to a law
3 enforcement officer or probation officer or someone on the
4 street?

5 A. I was referring to his structure in -- in his, gang in his
6 organization.

7 Q. When you asked him about who he was going to report to,
8 what did he say?

9 A. He said he wouldn't report to anybody. They were going to
10 report to him.

11 Q. I'd like to show you what's been marked as Government's
12 Exhibit 34.

13 MR. SKARET: This is not in evidence, Your Honor.

14 Q. (By Mr. Skaret) Lieutenant Galindo, do you recognize
15 what's been marked as Government Exhibit 34?

16 A. Yes, sir.

17 Q. And what is Government Exhibit 34?

18 A. That is a self-admission form.

19 Q. And as part of your exit interview at the discharge
20 location, did the defendant sign this defendant self-admission
21 form?

22 A. Yes, he did, sir.

23 Q. And what were the admissions that he made on this form?

24 A. The admissions that he made on here -- that his name is
25 Ramon Renteria and his number -- his registration number was

1 correct. That he was a member of the Barrio Azteca gang. And
2 he has been affiliating with that group since the 1990s. And
3 he claimed he held the rank of lieutenant.

4 MR. SKARET: Your Honor, I offer Government's Exhibit
5 34 and ask that it be published.

6 THE COURT: Any objections?

7 MR. FOSTER: Subject to my earlier objection.

8 THE COURT: So noted. The Court will overrule the
9 objection. And 34 will be admitted.

10 Q. (By Mr. Skaret) All right. What day did you prepare this
11 particular form?

12 A. September 21, 2010, sir.

13 Q. All right. And why is it that you prepared the form?

14 A. It's part of validation criteria for the BOP to support
15 giving assignments -- Security Threat Group assignments, gang
16 assignments, to individuals.

17 Q. All right. And this particular form states here, Ramon
18 Renteria registered number 66797080, signs this statement of
19 his own free will without promises or assurances. And hereby
20 admits that I am a current and active member of the Barrio
21 Azteca.

22 Is that correct?

23 A. Yes, sir.

24 Q. Now, did you ask him how long he had been a member of that
25 group?

1 A. Yes, sir.

2 Q. And what did he say?

3 A. He stated since the 1990s.

4 Q. And did he write 1990s on that form right here?

5 A. No, sir, our staff did.

6 Q. All right. Was that after he said that?

7 A. After he said that.

8 Q. Did you ask him about what rank he held in that
9 organization?

10 A. Yes, sir.

11 Q. And what did he say?

12 A. He stated lieutenant.

13 Q. And is that where it's written on the form?

14 A. That's where my staff wrote that, yes, sir.

15 Q. That was after he said it?

16 A. After he said it.

17 Q. Now, there's a signature here, inmate signature. Whose
18 signature is that?

19 A. That is Renteria's signature.

20 Q. Did you see him sign that?

21 A. Yes, sir.

22 Q. Now, there's a date and time that the inmate signed. It
23 says September 21, 2008. Was this a typographical error?

24 A. That is a typographical error, sir.

25 Q. There's another 2008 right down here.

1 A. That, as well, is a typographical error.

2 Q. You're sure that this was September 21, 2010?

3 A. Yes, sir.

4 Q. Is this a picture of the defendant?

5 A. Yes, sir. There's a picture we have on file.

6 Q. All right. And is this some sort of a card?

7 A. That's going to be the same information that is put on his
8 identification card.

9 Q. Okay. After your exit interview with the defendant was
10 complete, what happened to the defendant?

11 A. Um, he went on with his release procedures.

12 Q. Was he ultimately released that day?

13 A. Yes, he was.

14 Q. Okay.

15 MR. SKARET: Pass the witness.

16 THE COURT: All right. Whenever you're ready.

17 CROSS-EXAMINATION

18 BY MR. FOSTER:

19 Q. You were aware of the FBI investigation into the telephone
20 usage in Pollock.

21 A. Yes, sir.

22 Q. In fact, you were there with the FBI listening to the
23 telephone conversations. Is that correct?

24 A. Yes, sir.

25 Q. And part of that is Bureau of Prisons protocol when there

1 involves investigations inside the prison regarding something
2 of that nature. Isn't that true?

3 A. Yes, sir.

4 Q. So you knew what was being said on there and who was on
5 those conversations.

6 A. Yes, sir.

7 Q. And you were aware that Ramon Renteria was in the same cell
8 as Carlos Pereya.

9 A. Yes, sir.

10 Q. You were aware that there was at least one phone call on
11 there where Ramon Renteria was heard talking.

12 A. Yes, sir.

13 Q. And, when was -- let's see. Mr. Renteria and Mr. Carlos
14 Pereya were removed from that cell in the early morning hours
15 of August 19, 2010.

16 A. I believe that was the date, yes, sir.

17 Q. And he arrived in Beaumont that same morning.

18 A. That same morning.

19 Q. What time did he get to Beaumont?

20 A. I believe the records reflected, approximately, 4:00 --
21 shortly after 4:00 in the morning.

22 Q. How long does it take to drive between Pollock penitentiary
23 and Beaumont penitentiary?

24 A. Roughly, sir, possibly about three hours or so.

25 Q. Did they -- did you have anything to do with his transfer

1 to Beaumont or that assignment?

2 A. No, sir.

3 Q. Just purely by happenstance?

4 A. It wasn't by my influence.

5 Q. When he was in Beaumont, I believe he was there for, what,
6 about two weeks?

7 MR. SKARET: Objection, misstates the evidence on
8 direct.

9 Q. I'm just asking was it two or three?

10 MR. SKARET: I believe the testimony on direct was he
11 was there for, approximately, a month.

12 THE COURT: All right. Well, ask him -- you can ask
13 him how many weeks he was there.

14 Q. (By Mr. Foster) How many weeks was he there?

15 A. Approximately, four weeks, sir.

16 Q. Did you have time to talk to him during that four weeks?

17 A. When we would do weekly rounds in the special housing unit,
18 I engaged in casual conversation with him.

19 Q. Did you ever pull him aside and ask him things privately?

20 A. Other than the exit interview. And that wasn't private.
21 So, no.

22 Q. Okay. And, actually, when it comes to the exit interview,
23 didn't you pull him out of a line where he was headed out the
24 doors?

25 A. Excuse me, sir?

1 Q. Didn't you pull him out of a line that he was already in
2 where he was headed out the door?

3 A. No, sir.

4 Q. No? When did you actually get him in for the interview?

5 A. As they were processing him out.

6 Q. Okay. Explain to me what processing is.

7 A. They probably moved him over from the special housing unit
8 over to the receiving and discharge, removed any restraints he
9 may have been wearing, searched him, gave him some release
10 clothing, identified him, proper identification through
11 documentation, fingerprints, photographs, whatever.

12 Q. Did you get him after those fingerprints, photographs and
13 --

14 A. I'm not sure if the fingerprints had already been taken or
15 not.

16 Q. Was he by himself?

17 A. Yes, he was.

18 Q. In other words, in the processing --

19 A. Yes.

20 Q. He was by himself. He's not with other people?

21 A. No, he was not with other people.

22 Q. After you did the interview, you sent your memo to the FBI
23 that very same day. Is that right?

24 A. Yes, sir, I did.

25 Q. Who did you send it to?

1 A. An FBI agent.

2 Q. A name?

3 A. I believe it was Special Agent Samuels.

4 Q. Would that be Special Agent Samantha Mikeska?

5 A. No, sir.

6 Q. In your memo, I noticed you said that he had served,
7 approximately, three years in the Texas Department of
8 Corrections.

9 A. Yes, sir.

10 Q. What is the Texas Department of Corrections?

11 A. Texas Department of Criminal Justice is the state prison
12 system.

13 Q. Have you had an opportunity to review his criminal history?

14 A. No, sir, outside the bureau, no, sir.

15 Q. Okay. Do you recall what it was when you reviewed it
16 inside the bureau, then? Do you recall reviewing in it the
17 bureau?

18 A. I do go over several individuals'. . .

19 Q. Do you recall ever seeing a portion of the criminal history
20 that he actually served in the Texas Department of Criminal
21 Justice?

22 A. No, sir. That's not going to be in our bureau records.

23 Q. You said that he already changed clothes.

24 A. I believe he had, yes.

25 Q. When you say, I believe he had, that sounds a little --

1 maybe he hadn't kind of thing. What I'm asking you is what do
2 you recall independently? Had he changed clothes or not? If
3 you don't remember, that's an appropriate answer as well.

4 A. I understand that, sir. I believe he had -- I believe he
5 had changed his clothes.

6 Q. I'm trying to get beyond -- is that an emphatic yes, he
7 has. Or is that, no, he hasn't? Or is that I'm not quite
8 sure?

9 A. That's to the best of my knowledge that he did change his
10 clothes.

11 Q. Okay. Thank you. What other staff members were there when
12 you did this interview?

13 A. That was Robert Niland. He's an intelligence research
14 specialist in my office.

15 Q. And from the Elmo, Exhibit Number 34, which has been
16 admitted. Can you see that exhibit, sir?

17 A. Excuse me?

18 Q. Can you see that exhibit?

19 A. Yes, I can.

20 Q. Okay. Whose handwriting is that, 1990?

21 A. That's going to be Mr. Niland's.

22 Q. And whose handwriting is that?

23 A. That's going to be Mr. Niland's.

24 Q. Why is there a difference in these two in the level of
25 intensity?

1 A. I'm not a handwriting specialist, sir. I couldn't address
2 that.

3 Q. Could it be, sir, that these entries were made after the
4 fact by different people?

5 A. After which fact, sir?

6 Q. After Mr. Renteria had signed this document and --

7 A. No, sir.

8 Q. Actually, you already knew or had information from
9 listening to these phone calls from Mr. Carlos Pereya of what
10 Mr. Ramon Renteria's rank was supposed to be, didn't you?

11 A. Had some indication, yes, sir.

12 Q. And you asked that information in this interview,
13 specifically for this case, to make a confirmation, didn't you?

14 A. For confirmation, yes, sir. This is -- go ahead.

15 Q. And your question had nothing to do with the security of
16 the prison system.

17 MR. SKARET: Objection to the relevance.

18 THE COURT: All right. I'll overrule. He can answer.

19 A. How's that again, sir?

20 Q. (By Mr. Foster) Your question as to his rank had nothing
21 to do with the security of the prison system.

22 A. Yes, it did, sir.

23 Q. Mr. Renteria was on his way out, sir. Is that not correct?

24 A. Yes, sir, he was on his way out.

25 MR. FOSTER: Pass the witness.

1 THE COURT: Anything else?

2 REDIRECT EXAMINATION

3 BY MR. SKARET:

4 Q. On cross-examination, you said that, um -- the defense
5 lawyer asked you whether your interview had to do with the
6 security of the prison facility at Beaumont. How did that
7 interview deal with the security at the prison at Beaumont?

8 A. Okay. Not necessarily just Beaumont, but with security of
9 any BOP facility. Okay. Even though he is on his way out,
10 this is a self-admission form, this is what he is attesting,
11 what he is admitting to. Okay. This information would be
12 beneficial to the bureau in the event that additional
13 communication is established with the outside world.

14 I mean, if -- it would be substantial information if
15 he was giving direction from the outside to conduct business
16 matters inside the secure institution that would influence the
17 orderly running, could influence the safety of inmate or staff.

18 Q. On the self-admission form itself, Government's Exhibit 34,
19 were you there when Mr. Niland wrote in "1990s"?

20 A. Yes, sir.

21 Q. Were you there when Mr. Niland wrote in "lieutenant"?

22 A. Yes, sir.

23 Q. And did the defendant, Ramon Renteria, sign that form after
24 those things had been written on the form?

25 A. After those items had been written on there, yes, sir.

1 Q. And those facts came directly from an interview with him
2 that day?

3 A. His admissions, yes, sir.

4 Q. Thank you.

5 MR. SKARET: Nothing more, Your Honor.

6 THE COURT: All right. Anything else of this witness?

7 MR. FOSTER: No further questions, Judge.

8 THE COURT: All right. Is he released as a witness?

9 MR. SKARET: Yes, Your Honor.

10 MR. FOSTER: We have no objection, Judge.

11 THE COURT: All right. Thank you. You may step down.
12 You're free to go.

13 Government may call their next witness.

14 MR. COOLEY: Your Honor, at this time Government's
15 gonna call Special Agent Gregory Waterson.

16 THE COURT: All right.

17 GREG WATERSON, SWORN

18 DIRECT EXAMINATION

19 BY MR. COOLEY:

20 Q. Sir, please state your name.

21 A. Gregory Waterson.

22 Q. Are you employed?

23 A. Yes, I am.

24 Q. Where are you employed?

25 A. As a special agent with the Federal Bureau of Prisons of

1 Investigation.

2 Q. Um, prior -- how long have you been an FBI agent?

3 A. I joined the FBI in May of 2004.

4 Q. Prior to that, was -- your background?

5 A. Civil engineer.

6 Q. And how long were you a civil engineer for?

7 A. Approximately, seven years.

8 Q. Now, when you, um, first became an FBI agent, where were
9 you assigned?

10 A. Brownsville, Texas.

11 Q. How long were you assigned there?

12 A. Three years.

13 Q. What type of work did you do while assigned -- assigned
14 there?

15 A. Violent crimes and gang matters.

16 Q. And after -- after that period of time, you were
17 transferred to another location.

18 A. Las Cruces, New Mexico.

19 Q. When was that?

20 A. I arrived in Las Cruces in October 2007.

21 Q. And what type of assignments did you have when you arrived
22 there?

23 A. Similar, violent crimes and gang -- criminal enterprises.

24 Q. Um, which particular gangs did you begin investigating when
25 you arrived in Las Cruces?

1 A. Barrio Azteca.

2 Q. How long after you arrived did you begin investigating the
3 Barrio Azteca?

4 A. Pretty much when I arrived there, there was an ongoing
5 investigation on the Westside BA. So I was assigned to assist
6 with that investigation.

7 Q. Who was the principal target in that investigation?

8 A. Roberto Meza.

9 Q. Ultimately, were there people charged in that
10 investigation?

11 A. Yes.

12 Q. Approximately, how many?

13 A. 11.

14 Q. Who were some of the principal people or main defendants
15 that were charged in that investigation?

16 A. Roberto Meza, Pablo Romero, Baltazar Gallegos.

17 Q. Was there an individual by the name Richard Sanchez, as
18 well?

19 A. Yes, sir.

20 Q. Um, upon completion of that investigation, did you, um,
21 begin to, um -- did you get involved in a second BA
22 investigation?

23 A. I did.

24 Q. When did that occur, approximately?

25 A. The summer of 2010.

1 Q. And how did that come about?

2 A. I was asked to attend a meeting at the El Paso Field Office
3 regarding an investigation they were conducting here in El Paso
4 targeting the BA.

5 Q. And based on that meeting, what, if anything, did you begin
6 to participate in?

7 A. We were asked to assist with that investigation, this case,
8 by, again, targeting the Westside Barrio Aztecas.

9 Q. Now, when you say the Westside, um, that was the same area
10 in which you were targeting your first investigation?

11 A. Correct.

12 Q. And how does that relate to El Paso, the Westside?

13 A. The Westside is one of the territories of the Barrio
14 Aztecas.

15 Q. And that -- what's the general location of the Westside?

16 A. The Westside of El Paso and some communities in Southern
17 New Mexico, basically, the Rio Grande corridor between El Paso
18 and Las Cruces.

19 Q. So it encompasses part of El Paso, part of the Western
20 District of Texas, and it stems into New Mexico itself.

21 A. Correct.

22 Q. That would explain your participation or venue in terms of
23 that.

24 A. Correct.

25 Q. Now, your earlier investigation, again, as you stated, um,

1 also focused on the Westside. And you mentioned that Bobby
2 Meza and Pablo Romero were two of the principal people you
3 targeted. Did they have a rank in the BA at the time?

4 A. They were sergeants.

5 Q. And in terms of their responsibilities for the Westside,
6 what was that, if any?

7 A. They oversaw the Barrio Azteca criminal enterprise as it
8 functioned on the Westside.

9 Q. Did they do that together or did it turn out one did one,
10 initially, and then was followed by the other?

11 A. Initially Pablo Romero. Then, eventually, Roberto Meza
12 took over.

13 Q. Now, when you began this second investigation, again, on
14 the Westside, um, who was your main target in that
15 investigation?

16 A. Jesus Espino.

17 MR. COOLEY: At this time I would like to show the
18 witness -- it's not in evidence at this point, 16B-11.

19 Q. Do you see that individual?

20 A. Yes.

21 Q. Do you recognize that individual?

22 A. It's a photograph of Jesus Espino.

23 Q. That was the main target of your investigation in the
24 second Barrio Azteca investigation.

25 A. Correct.

1 MR. COOLEY: At this time we offer into evidence, Your
2 Honor, 16B-1.

3 THE COURT: Any objections?

4 MR. FOSTER: No objections, Judge.

5 THE COURT: It'll be admitted.

6 MR. COOLEY: Request that it be published to the jury,
7 Your Honor.

8 THE COURT: It may.

9 Q. (By Mr. Cooley) Now, from the beginning of your
10 investigation, the second investigation now, um, what's your
11 understanding of what maybe -- Jesus Espino's role was in
12 the -- in the Westside?

13 A. He was in charge of the Westside.

14 Q. And as a result of you participating and focusing on Jesus
15 Espino, um, did that involve a wiretap?

16 A. It did.

17 Q. What is a wiretap?

18 A. It's a intercept of communications over a cellular
19 telephone.

20 Q. So we said -- you said it did involve wiretap. Did you
21 obtain wiretap on his phone?

22 A. Yes, we did.

23 Q. When did that occur?

24 A. It was initiated on October 29, 2010.

25 Q. How long was it up?

1 A. I believe it went down on November 24, 2010, approximately,
2 midnight.

3 Q. Approximately, how many pertinent calls were involved in
4 that wiretap?

5 A. Approximately, 700.

6 Q. Now, again, you're from Las Cruces. Is that correct?

7 A. Yes.

8 Q. So that wiretap was obtained in New Mexico or El Paso?

9 A. New Mexico.

10 Q. During the time in which the wiretap was up, what type of
11 calls were being intercepted?

12 A. Calls pertaining to drug trafficking, quota collection, and
13 other Barrio Azteca business.

14 MR. COOLEY: This is not in evidence, Your Honor. I
15 would like to show the witness 33A-2.

16 THE COURT: All right.

17 MR. COOLEY: Um, actually, what we would like to show
18 this witness, Your Honor is 33A-1, not A-2 at this point.

19 THE COURT: All right. And that has not been admitted
20 either.

21 MR. COOLEY: That's not in evidence at this point
22 either.

23 THE COURT: Whenever you're ready.

24 Q. (By Mr. Cooley) Do you recognize 33A-1?

25 A. I do.

1 Q. What is 33A-1?

2 A. It's a transcript of a translation of an intercepted phone
3 call that occurred on October 29, 2010, approximately, 9:00
4 p.m.

5 Q. That was off the wiretap you just testified to?

6 A. Yes.

7 MR. COOLEY: At this time I would like to show the
8 witness, Your Honor. It's not in evidence. 33A-2.

9 THE COURT: All right.

10 Q. (By Mr. Cooley) And does this appear to be the audio and
11 transcript of what is Government's Exhibit 30 -- what you just
12 saw as Government's Exhibit 33A-1?

13 A. It does.

14 MR. COOLEY: I would like to offer into evidence 33A-1
15 and -2.

16 THE COURT: Any objections?

17 MR. FOSTER: No objections, Judge.

18 THE COURT: 33A-1 and 33A-2 will be admitted.

19 MR. COOLEY: I would like to show the witness, Your
20 Honor, 33 -- it's not in evidence, Your Honor, 33B-1.

21 Q. (By Mr. Cooley) Do you recognize 33B-1?

22 A. I do.

23 Q. What is 33B-1?

24 A. It's a transcript of another intercepted phone call from
25 Jesus Espino's telephone that occurred on October 29, 2010, at,

1 approximately, 9:23 p.m.

2 MR. COOLEY: If we now could show the witness, Your
3 Honor, 33B-2. It's not in evidence.

4 THE COURT: All right.

5 Q. (By Mr. Cooley) Agent Waterson, do you recognize 33B-2?

6 A. I do.

7 Q. And does that appear to be the audio and transcript of what
8 you already testified to as 33B-1?

9 A. It is.

10 MR. COOLEY: At this time we offer into evidence 33B-1
11 and 33B-2.

12 THE COURT: Any objections?

13 MR. FOSTER: No objections, Judge.

14 THE COURT: Be admitted.

15 Q. (By Mr. Cooley) Now, Agent Waterson, while you were on on
16 this telephone you talked about, um, certain types of calls
17 were intercepted. How -- how would you characterize these type
18 of calls in terms of the BA organization? Would you say it was
19 a high level type of communication or low level type of
20 communication?

21 A. Low level.

22 Q. What do you mean by that?

23 A. More the activities that they were doing on the street.

24 Um, the drug trafficking on the streets, the quota collection
25 from the stores on the streets.

1 Q. Basically, the soldiers?

2 A. Soldiers.

3 Q. And in the course of this, um, investigation did -- while
4 you were up on the telephone, did it lead to a drug seizure?

5 A. It did.

6 Q. And when did that occur?

7 A. November 9, 2010.

8 Q. Um, who was involved in that drug transaction?

9 A. Ultimately, Jesus Espino directed couple of individuals,
10 Porky, who's going to be Juan Amaro, and Santiago Lucero, to
11 pick up some unknown quantity of heroin from Omar Lopez.

12 Q. And who is Omar Lopez?

13 A. Peewee.

14 MR. COOLEY: At this time I would like to show the
15 witness -- it is in evidence. I would like to produce
16 Government's Exhibit 6RR.

17 THE COURT: All right. You want it shown to the jury?

18 MR. COOLEY: Yes, Your Honor.

19 Q. (By Mr. Cooley) You mentioned, um, Omar Lopez. Do you see
20 him in the photo there?

21 A. I do.

22 Q. Which individual is he?

23 A. He's wearing the white shirt with the blue stripes.

24 Q. If you're looking at the photo, the one on the left or
25 right?

1 A. The one on my right.

2 Q. And so two other subjects, actually, um, picked up what
3 ultimately turned out to be drugs from that individual. Is
4 that correct?

5 A. Correct.

6 Q. What was the quantity of the drugs that was ultimately
7 seized?

8 A. 26.5 grams of heroin.

9 Q. During the course of the wire intercept, was there a code
10 being used for the drugs?

11 A. A lot of times Jesus Espino would ask for uña de gato from
12 Peewee.

13 Q. And in this transaction was there a discussion with that
14 code used?

15 A. Yes. He had asked Peewee for uña de gato.

16 Q. And, ultimately, it turned out to be an ounce of what?

17 A. Heroin.

18 MR. COOLEY: I would like to show the witness, Your
19 Honor, Government's Exhibit 26. It's not in evidence.

20 Q. Now, in the course of this wiretap, in addition to the
21 soldiers identified, um, and some of the leadership, was there
22 a drug customer that was also identified?

23 A. Yes.

24 Q. Who was that?

25 A. Delia Cervantes.

1 Q. And what's her relationship with the BA?

2 A. She sold heroin for Jesus Espino.

3 Q. When you say sold for, what does that mean?

4 A. Jesus Espino would supply her with heroin. She would sell
5 it. And she also would pay quota back to the BA.

6 Q. What type of quantities was she receiving from him?

7 A. Um, lesser amounts. Um, quarter ounces, half ounces.
8 Something to that effect.

9 Q. Directing your attention to Government's Exhibit 26, do you
10 see Delia on this exhibit?

11 A. I do.

12 Q. Where is she?

13 A. Bottom row.

14 Q. Do you also see Porky in this exhibit?

15 A. I do.

16 Q. And that's the same Porky which was involved in this drug
17 seizure. Is that correct?

18 A. Correct.

19 Q. Do you also see Sonny in this picture?

20 A. I do.

21 Q. And he was the second individual that participated in the
22 purchase or the receipt of the ounce of heroin from Peewee. Is
23 that correct?

24 A. Yes.

25 Q. Now, during the course of your investigation -- the BA

1 investigation, that is, the second one, did there come a time
2 when, um, there was a search that occurred at -- on an
3 individual known as Payaso?

4 A. Yes.

5 Q. Who's Payaso?

6 A. Jorge Diaz.

7 Q. And what was the significance of that particular search?

8 A. He was the bank for the Barrio Aztecas.

9 Q. When you say bank, what does that mean?

10 A. He's the individual that held the money generated by the
11 BA.

12 Q. Now, when you, um -- when that -- were you working that day
13 when that search took place?

14 A. I was.

15 Q. Where were you?

16 A. I was in the the wire room.

17 Q. Do you recall the precise date?

18 A. November 12, 2010.

19 Q. When you say you were in the wire room, what does that
20 mean?

21 A. The room where the calls are being intercepted.

22 Q. And during that time, Manny Lopez -- there was a wiretap on
23 Manny Lopez's line. Is that correct?

24 A. Correct.

25 MR. COOLEY: Your Honor, for this witness at this

1 point, 22-A2.

2 THE COURT: All right. That is in evidence.

3 Q. (By Mr. Cooley) Do you recognize this exhibit?

4 A. I do.

5 Q. What do you recognize this exhibit as?

6 A. It's a transcript of a phone call that occurred between
7 Manny Lopez and Monica Diaz the day of the search.

8 MR. COOLEY: I'd ask this to be published. It's
9 already been offered into evidence.

10 THE COURT: It may.

11 Q. (By Mr. Cooley) Where were you when this call came in?

12 A. I was in the wire room.

13 Q. Did anybody bring this call to your attention?

14 A. The individual actually monitoring the line advised me that
15 this call just occurred.

16 Q. And once you heard that call occurred, what, if any, action
17 did you take?

18 A. We -- I made sure I listened to the call. Spoke with the
19 individual that had intercepted the call -- listened to the
20 initial intercept, and then I contacted agents that were out
21 conducting the search.

22 Q. As a result of that, what did the agents do?

23 A. They went back to the residence.

24 Q. And what did they recover?

25 A. It's my understanding they recovered currency and drug

1 ledgers and other documentation.

2 Q. Now, not too long after this search you participated,
3 personally participated, in the search of Espino's house. Is
4 that correct?

5 A. Correct.

6 Q. Um, when did that take place?

7 A. November 23, 2010.

8 MR. COOLEY: Your Honor, I don't believe this is
9 evidence.

10 THE COURT: Again, the number, I'm sorry?

11 MR. COOLEY: 10 zero -- 100.

12 THE COURT: I don't show it.

13 MR. COOLEY: I don't have it in evidence, Your Honor.

14 THE COURT: Okay. You show it in evidence?

15 MR. COOLEY: I do not.

16 THE COURT: No -- I do, too. I show it already in
17 evidence.

18 MR. COOLEY: You show it in evidence?

19 THE COURT: Yes.

20 MR. COOLEY: Well, you know, just to be safe, Your
21 Honor, I'm gonna go ahead and have him scroll through it. And
22 then I'll offer it again.

23 THE COURT: All right. Thank you.

24 Q. (By Mr. Cooley) Do you recognize those photos?

25 A. I do.

1 Q. What are those photos?

2 A. Those are photographs taken during the search warrant of
3 Jesus Espino's residence.

4 Q. Again, when did that occur?

5 A. November 23, 2010.

6 Q. And this is towards the end of the wire in which you're on
7 his phone. Is that right?

8 A. Correct.

9 MR. COOLEY: At this time, Your Honor, just to be
10 safe, we will offer it again into evidence.

11 THE COURT: Any objections?

12 MR. FOSTER: No objections, Judge.

13 THE COURT: 100 will be admitted.

14 MR. COOLEY: Can you please go to the first page.

15 THE COURT: Do you wish it shown to the jury?

16 MR. COOLEY: Yes, I do.

17 Q. (By Mr. Cooley) Starting with the first photo that's part
18 of this exhibit, what does this depict?

19 A. It's a magazine for a handgun.

20 Q. And this, um -- this is, actually, a notation on the bottom
21 of the screen that gives the address in which the search
22 occurred. Is that correct?

23 A. Yes.

24 Q. Is that accurate?

25 A. Yes, sir, I believe it's accurate.

1 Q. Again, this is Jose -- Jesus Espino's residence. Is that
2 right?

3 A. Yes, sir.

4 Q. Going to the next picture, please. What does this depict?

5 A. I believe it's the same magazine.

6 Q. Going to the next one.

7 A. The drawer in which the magazine was found.

8 Q. Going to the next one.

9 A. Serial number on a handgun.

10 Q. Was that handgun recovered?

11 A. Yes.

12 Q. It's already been offered into evidence. Is that correct?

13 A. Yes.

14 Q. Or admitted, I should say, in evidence. Next photo,
15 please. What does that depict?

16 A. Photo of a magazine.

17 Q. Again, that's also been admitted into evidence in the case.
18 Is that correct?

19 A. Yes.

20 Q. Next one.

21 A. Another photograph.

22 Q. That's it. I'm showing you what's been admitted into
23 evidence as Government's Exhibit 10A.

24 MR. COOLEY: I'd like to publish it to the jury, Your
25 Honor.

1 THE COURT: You may.

2 Q. (By Mr. Cooley) Do you recognize this document?

3 A. I do.

4 Q. What is this document?

5 A. It's the second page of a FD302 report of interview.

6 Q. Who took that interview?

7 A. Myself, as well -- and couple of Metro narcotics officers
8 present.

9 Q. Now, on the top here there's a name.

10 A. Baltazar Gallegos.

11 Q. And a nickname?

12 A. Balta.

13 Q. And the date?

14 A. February 21, 2009.

15 Q. When did you -- um, and you actually participated in this
16 document. Is that right?

17 A. Yes.

18 Q. Created this document?

19 A. Yes.

20 Q. What does this date reflect?

21 A. The date of the interview.

22 Q. Now, was this part of the first BA investigation or the
23 second?

24 A. The first.

25 Q. And you mentioned this individual, was he a co-defendant in

1 that case?

2 A. He was.

3 Q. There's a reference to a Bobby. Which Bobby is this?

4 A. Roberto Meza.

5 Q. And he was the main target of your investigation. Is that
6 right?

7 A. Yes.

8 Q. His name is mentioned up here?

9 A. Yes.

10 Q. There's some notation on the bottom right-hand corner.

11 A. Yes.

12 Q. What does that signify?

13 A. I believe that's a Bates stamp for discovery purposes from
14 the case.

15 Q. So what does that mean?

16 A. It's an identifier, Meza et al. is the case. And I believe
17 1224 is the page number from the discovery that was provided.

18 Q. So this is the actual case, Meza, et al.?

19 A. Yes, sir.

20 Q. U.S. versus Meza, et al.?

21 A. Yes, sir.

22 Q. He being the lead defendant. Is that right?

23 A. Yes.

24 Q. And this was turned -- this document or copy of this
25 document with that Bates stamp would have been turned over to

1 the defendant's attorneys in the case. Is that right?

2 A. Yes.

3 Q. I'm going to show you what's been in evidence as
4 Government's Exhibit 10-J, as in John. This was also recovered
5 out of Espino's house. Is that right?

6 A. Yes, sir.

7 Q. There's the last name Espino here on the last page?

8 A. Yes.

9 Q. And, again, on the first page there's an Espino. Is that
10 right?

11 A. Yes, there is.

12 Q. Going to the, basically, second page, there's a name on
13 here. Do you recognize that name?

14 A. I do.

15 Q. What is that name?

16 A. Hector Galindo.

17 Q. Do you recognize the number that follows that? What type
18 of number that is?

19 A. I believe it's a assigned TDC number for Galindo.

20 Q. Now, through your investigation, are you aware of Hector
21 Galindo? Do you know what his nickname is?

22 A. Silent.

23 Q. During the course of this investigation, he was located
24 where?

25 A. Within the Texas prison system.

1 Q. Would you characterize him, um, as a low-level BA member or
2 high-level BA member?

3 A. High-level BA member.

4 MR. COOLEY: 25-A, Your Honor, this is in evidence. I
5 would like it published to the jury.

6 THE COURT: Fine.

7 MR. COOLEY: Thank you.

8 Q. Previously, you testified about the 302 that you generated
9 from the interview of this individual. Is that correct?

10 A. Yes.

11 Q. He was cooperating --

12 THE COURT REPORTER: What was the name again?

13 Q. The name then --

14 A. Baltazar Gallegos.

15 Q. He was cooperating at the time. Is that right?

16 A. Not necessarily.

17 Q. Does this document indicate who's providing information?

18 A. He provided information that day.

19 Q. So at that particular day this document's his cooperation?

20 A. Yes.

21 Q. Can we go back to 25A? Do you see his name on this
22 document?

23 A. I do.

24 Q. Can you point to it with an arrow? Point to it so an arrow
25 appears. Actually, from the screen there's one name and

1 there's a name right below that. Do you see that?

2 A. I do.

3 Q. What individual are you talking about?

4 A. Gallegos, Baltazar.

5 Q. Now, the next column there's a name, what name is that?

6 A. Balta.

7 Q. The next column there's a location.

8 A. I believe it's EPT Sunland.

9 Q. Are you familiar with that notation?

10 A. I believe it's an indication of Sunland Park, New Mexico.

11 Q. What part of the BA organization is that?

12 A. The Westside.

13 Q. Any doubt in your mind it's the same individual in which
14 that 302 statement was taken from?

15 A. Same individual.

16 Q. 33A-1.

17 MR. COOLEY: I would like to publish this, Your Honor.
18 It's previously submitted in evidence.

19 THE COURT: You may.

20 Q. (By Mr. Cooley) Now, this, um -- when you began your
21 testimony we talked about one call. Is that right?

22 A. Yes.

23 Q. When did this call occur in relationship to the telephone
24 intercept that you were on that is Espino's telephone?

25 A. The first day.

1 Q. The very first day?

2 A. Yes.

3 Q. Um, when did the second call -- can we go to 33B-1 -- I'm
4 sorry, yeah 33B-1. When did this call occur?

5 A. Also on the first day.

6 Q. How much apart?

7 A. Within half an hour.

8 Q. What was being discussed during these two calls?

9 A. These calls were in response to an incident that had
10 occurred in Berino, New Mexico. Just prior to these calls
11 where Ricardo Gonzalez and Angel Renteria had gone to open a
12 7-11. And there was an incident that occurred during that.

13 Q. 7-11?

14 A. Yes, sir.

15 Q. Were they referring to from 7-11, from your understanding
16 investigating the Barrio Azteca for the last several years,
17 what are they referring to when they say 7-11?

18 A. A store.

19 Q. Not an actual 7-11.

20 A. Correct.

21 Q. And who participated in this first call?

22 A. The first call was between Jesus Espino and Omar Lopez.

23 Q. We've seen those photos already. Is that correct?

24 A. Yes.

25 Q. Today. Who was the second call between?

1 A. Jesus Espino, Carlos Perez, and Ricardo Gonzalez.

2 Q. Did Carlos Perez go by a nickname?

3 A. Bandit.

4 MR. COOLEY: At this time, Your Honor, I'd like to
5 show the witness Government's Exhibit 16G-1. It's not in
6 evidence.

7 THE COURT: All right.

8 Q. (By Mr. Cooley) Do you recognize Government's Exhibit
9 16G-1?

10 A. I do.

11 Q. Who is that?

12 A. Carlos Perez.

13 Q. What does he go by?

14 A. Bandit.

15 MR. COOLEY: At this time we offer into evidence and
16 ask to be published 16G-1.

17 THE COURT: Any objections?

18 MR. FOSTER: No objections, Judge.

19 THE COURT: 16G-1 will be admitted. And it may be
20 published.

21 Q. (By Mr. Cooley) Who else participated in that second
22 conversation?

23 A. Ricardo Gonzalez.

24 Q. And what nickname does he go by?

25 A. Cuate.

1 MR. COOLEY: At this time, Your Honor, I would like to
2 show the witness Government's Exhibit -- what's been marked as
3 Government's Exhibit 16H-1. It is not in evidence.

4 THE COURT: You may show him.

5 MR. COOLEY: Yes, Your Honor.

6 Q. (By Mr. Cooley) Do you recognize this individual?

7 A. I do.

8 Q. Who is that individual?

9 A. Ricardo Gonzalez.

10 MR. COOLEY: At this time we offer into evidence, Your
11 Honor, Government's Exhibit 16H-1 and ask that that be
12 published.

13 THE COURT: Any objections?

14 MR. FOSTER: No objections, Judge.

15 THE COURT: It will be admitted. It may be shown.

16 Q. (By Mr. Cooley) So the first call, basically, indicated --
17 it was between who?

18 A. Jesus Espino and Omar Lopez.

19 Q. And what did it discuss?

20 A. Jesus Espino advised Omar Lopez that Primo was just
21 arrested.

22 Q. Who's Primo?

23 A. Angel Renteria.

24 Q. And you mentioned a 7-11?

25 A. Yes.

1 Q. How did that relate to the 7-11?

2 A. I believe he said that they had just -- they were out doing
3 a 7-11. And he was arrested as a result of that.

4 Q. Now, the second call, who was that between again?

5 A. Initially, between Jesus Espino and Carlos Perez. And then
6 shortly after the phone call begins Jesus Espino puts Ricardo
7 Gonzalez on the phone with Carlos Perez.

8 Q. Okay. Carlos Perez being Bandit?

9 A. Yes.

10 Q. Ricardo Gonzalez being who?

11 A. Cuate.

12 Q. What does Cuate tell Bandit?

13 A. He goes into detail with Bandit regarding what had happened
14 when they were attempting to go on a 7-11 in Berino.

15 Q. Was there any reference during that call to Primo?

16 A. There was. He says that Primo was arrested.

17 Q. Now, you indicated earlier that, um, when you intercepted
18 these calls on Espino's line, this is day one.

19 A. Yes.

20 Q. As a result of that, what was your concern?

21 A. My concern?

22 Q. Concern in terms of responding to -- personally
23 participating in the investigation relating to this.

24 A. Myself and one of my task force officers who's assigned to
25 the Dona Ana County Sheriff's Office -- we went out to the

1 scene and -- just to get an idea of what had happened out
2 there.

3 Q. Did you conduct any interviews?

4 A. No.

5 Q. Did you aggressively participate in that investigation?

6 A. No.

7 Q. Why not?

8 A. We just -- it was the first day of our wire. We felt it
9 best not to have the FBI known -- that we were out in the area.

10 MR. COOLEY: One moment, Your Honor. Pass the
11 witness.

12 THE COURT: All right.

13 CROSS-EXAMINATION

14 BY MR. FOSTER:

15 Q. If you would, Mr. Waterson, look up -- if you would, look
16 up in the top right-hand corner of that Exhibit Number 25A.

17 A. Yes.

18 Q. Can you see it okay?

19 A. Yes.

20 Q. Can you interpret that?

21 A. The top right corner?

22 Q. Yes. Above the sticker.

23 A. "No facho no exes(sic)."

24 Q. No exes. So the people on this list are no exes, right?

25 A. Um, I'm not sure, sir. It's a muleta list. It's a list of

1 ex-BA members.

2 Q. If it's a list of ex-BA members, why does it say no exes?

3 A. I'm not sure why that's typed at the top of the list.

4 Q. You think maybe you-all got it wrong?

5 A. In my -- during the course of the investigation and my
6 discussion with other agents, you know, there's numerous names
7 that are on the list of individuals that are known to be exed
8 out of the BA.

9 MR. FOSTER: I'll pass the witness.

10 THE COURT: All right.

11 MR. COOLEY: Couple of follow-up questions, Your
12 Honor.

13 THE COURT: Go ahead.

14 REDIRECT EXAMINATION

15 BY MR. COOLEY:

16 Q. Counsel was asking you about the notation that occurs right
17 up in the top right-hand corner. Is that correct?

18 A. Yes.

19 Q. There's -- right before that notation there's an asterisk.
20 You see that?

21 A. Yes.

22 Q. If you scroll down, do you see first asterisk right there?

23 A. Yes.

24 Q. Are there any other asterisks between that point and the
25 top of the page?

1 A. I don't see any.

2 Q. You don't see any?

3 A. Between there and the top of the page.

4 Q. Yes.

5 A. The only other -- I see one below there in blue. And I see
6 an asterisk at the top of the page next to No Facho.

7 Q. Your understanding, though, this is an ex-member list. Is
8 that correct?

9 A. My understanding, yes.

10 MR. COOLEY: No further questions.

11 THE COURT: Anything further?

12 MR. FOSTER: No questions, Judge.

13 THE COURT: You may step down.

14 Government may call next witness.

15 MR. LEAL: Angel Renteria, Your Honor.

16 MR. FOSTER: May we approach?

17 (Bench conference. Out of hearing of jury.)

18 MR. FOSTER: It's going to take a couple minutes to
19 get him out here and everything. And my client's been asking
20 for an hour that he can take a bathroom break.

21 THE COURT: Do you want to go to lunch and start up
22 after lunch?

23 MR. LEAL: That's fine.

24 MR. FOSTER: That sounds good to me.

25 (Back in open court.)

1 THE COURT: We're gonna go a little early to lunch
2 today. It's 11:30. We're gonna go ahead and break for lunch.
3 Remember, you remain under the instructions the Court has
4 previously given you. And we'll see you back here at 12:30.
5 Thank you.

6 (Jury leaves courtroom.)

7 (Recess for lunch.)

8 (Back on the record.)

9 COURTROOM DEPUTY: Court is back in session.

10 THE COURT: You may be seated. Ready?

11 (Jury enters courtroom.)

12 THE COURT: You make be seated.

13 ANGEL RENTERIA, SWORN

14 DIRECT EXAMINATION

15 BY MR. LEAL:

16 Q. Mr. Renteria, would you introduce yourself to the jury,
17 please?

18 A. My name is Angel Renteria.

19 Q. How old are you?

20 A. I'm 38.

21 Q. Where are you living at right now?

22 A. In the jail.

23 Q. And have you been in jail for a while now on charges
24 involving RICO and conspiracy?

25 A. Yes, sir.

1 Q. All right. I want to turn your attention, first, to your
2 criminal history. Regarding your criminal history, does that
3 basically start back around 1991 with some DWIs?

4 A. Yes, sir.

5 Q. And those DWIs, were they here in Texas?

6 A. Yes, sir.

7 Q. I think there's one in '91, one in '94, one in '95, one in
8 '98. You got driving while license invalid in 1998. And then
9 you got an aggravated assault with deadly weapon charge back in
10 1998; does that sound about right?

11 A. Yes, sir.

12 Q. Um, and then, additionally, um, in 2007, you picked up a
13 third degree felony which was later reduced to state jail
14 felony. Does that sound about right?

15 A. Yes, sir.

16 Q. And, you've also got a conviction on that state jail
17 felony?

18 A. Yes, sir.

19 Q. Did you have to do time on that?

20 A. Yes, sir.

21 Q. And how much time did you have to do on that?

22 A. I believe it was six months.

23 Q. Okay. Um, at some point in time, along that criminal
24 history, you also picked up some criminal history in New
25 Mexico; is that right?

1 A. Yes, sir.

2 Q. Um, and some of that criminal history includes a battery
3 against a household member; is that right?

4 A. Yes, sir.

5 Q. Was that back around -- there was a judgment and sentence
6 in that case, back around May 2003; is that right?

7 A. Yes, sir.

8 Q. Um, and you had to do a year probation on that?

9 A. Yes, sir.

10 Q. Did you live out that probation?

11 A. Yes, sir.

12 Q. Additionally, in New Mexico, out of New Mexico -- out of
13 the United States District Court in the District of New Mexico,
14 you also picked up a possession with intent to distribute less
15 than 50 kilograms of marijuana; is that right?

16 A. Yes, sir.

17 Q. And that was somewhere around 2001; is that right?

18 A. Yes, sir.

19 Q. Um, initially, were you placed on some type of probation on
20 that?

21 A. Yes.

22 Q. How long was that?

23 A. I believe it was two years.

24 Q. Okay. And there were some special conditions on that. You
25 had to be under home confinement for six months?

1 A. Yes.

2 Q. And did that probation get revoked?

3 A. I got revoked, yes, sir.

4 Q. And did you have to do some time in the federal
5 penitentiary for that?

6 A. Yes, sir.

7 Q. Was that about five months?

8 A. About five months, yes, sir.

9 Q. And in addition to those things, um, you've also pled
10 guilty in this case; is that right?

11 A. Yes, sir.

12 Q. Did you plead guilty to Count I, which is conspiracy to
13 conduct the affairs of enterprise through a pattern of
14 racketeering activity, basically known as RICO?

15 A. Yes, sir.

16 Q. And did you also plead guilty to conspiracy to possess --
17 I'm sorry, to distribute -- with intent to distribute
18 controlled substance, um, and conspiracy to import heroin,
19 cocaine and marijuana?

20 A. Yes, sir.

21 Q. Okay. And did you also plead guilty to conspiracy to
22 launder monetary instruments?

23 A. Yes, sir.

24 Q. And that's in this case, right?

25 A. Yes, sir.

1 Q. Um, and with regards to your plea agreement, was part of
2 your agreement in the plea agreement that for all four of those
3 counts that you -- that the Government recommend that you
4 receive 240 months on each count to run concurrently?

5 A. Yes, sir.

6 Q. And something that was not included in the plea agreement,
7 but I believe was included on the record, was there also some
8 information relayed to you about the Government applying for
9 the witness security program on your behalf?

10 A. Yes, sir.

11 Q. Um, and you understand that you may not get into that
12 program, but that the Government will make an application for
13 you?

14 A. Yes, sir.

15 Q. Um, additionally, um, you also understand -- and you're
16 here testifying today basically out of the hopes that the judge
17 will reduce your sentence; is that right?

18 A. Yes, sir.

19 Q. And you understand that even if the Government makes that
20 application for reduction of your sentence, that ultimately
21 that decision rests with the Court?

22 A. Yes, sir.

23 Q. Um, all right. So, you've got a lengthy criminal history.
24 Um, and what I want to turn your attention to is would you tell
25 the jury when it was that you first started hanging around with

1 the people associated with the Barrio Azteca criminal
2 enterprise?

3 A. Well, that was back in -- when I first met them?

4 Q. Yeah.

5 A. That was back in 2001, I believe.

6 Q. Okay. And that's just an approximate date. Um, where were
7 you at whenever you first met folks associated with the Barrio
8 Azteca?

9 A. I was in La Tuna.

10 Q. What's La Tuna?

11 A. That's the federal penitentiary.

12 Q. Where is that located?

13 A. In -- I believe in Anthony, Texas.

14 Q. In regards to your meeting Barrio Azteca members in La
15 Tuna, who did you meet?

16 A. That I remember was -- I don't recall his name right now.
17 I met a couple of Barrio Azteca members there -- Monchis and
18 some other. . .

19 Q. All right. Did you become a member?

20 A. No.

21 Q. Um, what did you do -- how was it that you met them?

22 A. Well, they asked me where I was from, where I lived. And I
23 told them I was from Sunland.

24 Q. At some point in time, did you get discharged from La Tuna?

25 A. I got discharged two months when I was there, afterwards.

1 Q. And when you got discharged, did any of those Barrio Azteca
2 members ask you to do them any favors?

3 A. When I got out, just ask one of the Barrio Azteca members
4 to write to let them know what was going on outside.

5 Q. Okay. Did you do that?

6 A. Yes, sir.

7 Q. And why did you do that?

8 A. Just relating a message, favor to them.

9 Q. Okay. Is that about the time that your association
10 started?

11 A. I just did that one thing. And then I did my one year.

12 Q. Supervised release?

13 A. Supervisor release. And afterwards -- well, I went to work
14 about four or five years ago back now.

15 Q. Okay. So you left federal prison, you did that favor, you
16 did your one year of supervised release and went to work. Did
17 you stay in this area or go somewhere else?

18 A. No, I was traveling working.

19 Q. When we're talking about working, are we talking about --

20 A. Working in -- I was doing one year supervised release. I
21 was working at a carpet company. And afterwards, I got started
22 selling cars, buying them, selling.

23 Q. And during this time frame, are you involved in any illegal
24 activity?

25 A. No.

1 Q. At some point in time, do you wind up coming back to this
2 area?

3 A. Yes, I ended up picking up that state charge for
4 possession. And I ended up staying three years on supervised
5 release here.

6 Q. On probation?

7 A. Yeah, and I ended up talking to one of the gang members
8 that was there on my neighborhood.

9 Q. And who was that gang member?

10 A. Baltazar Gallegos.

11 Q. Now, during that time frame you said that you got picked up
12 for possession?

13 A. Yeah.

14 Q. What were you possessing?

15 A. For one gram of cocaine.

16 Q. Did you have a cocaine problem?

17 A. Yes.

18 Q. How much cocaine were you using?

19 A. Approximately -- I don't know, like \$60, \$70 a week, maybe
20 more.

21 Q. Where were you getting that cocaine from?

22 A. From neighborhood stores that were there around.

23 Q. When you say a neighborhood store --

24 A. Like people that are selling drugs around that I know.

25 Q. You're not talking about 7-Eleven, Wal-Mart or --

1 A. No, sir. I'm talking about people that are selling drugs.

2 Q. All right. So, um, you said that you got picked up and
3 then you talked to this Baltazar?

4 A. Yeah.

5 Q. Do you remember Baltazar's last name?

6 A. Gallegos.

7 Q. Gallegos?

8 A. Yes.

9 Q. Um, and Baltazar Gallegos, who was he? Who was he
10 associated with?

11 A. With the Barrio Azteca.

12 Q. And how do you know that?

13 A. When I got out from La Tuna, that was the guy I was
14 supposed to relay the message to.

15 Q. So you meet up with this Baltazar Gallegos, and what
16 happens when you met up with Baltazar Gallegos?

17 A. He starts asking me if -- what I was going to do, if I
18 wanted to sell or what. So I told him, yes, make some money.
19 And he started asking me, well, do you know of any other stores
20 around, people that are selling?

21 Q. Okay. And what did you tell him?

22 A. Yes, that I knew a couple of stores that were there.

23 Q. All right. And so, basically, he's asking you for
24 information on people that are selling dope?

25 A. Yeah.

1 Q. Do you relay that information?

2 A. Yes, sir.

3 Q. Does he pay you for that information?

4 A. He kind of dropped the quota on me so I wouldn't pay that
5 much.

6 Q. All right. What do you mean by he dropped the quota?

7 A. Well, when you start up a store or start pushing, um,
8 you're supposed to pay quota to the Barrio Aztecas, a fee for
9 protection or whatever they need.

10 Q. Okay. And so back then, were you a member of Barrio
11 Azteca?

12 A. No, sir.

13 Q. Okay. And so because you weren't a member, did you have to
14 pay quota?

15 A. Yes, sir.

16 Q. And you said that this quota is for -- the Barrio Azteca
17 collects for protection as well?

18 A. Yeah, they tell you it's for protection for you whenever
19 you get busted or, you know, for whenever you go into jail that
20 you -- you know, that's for your protection.

21 Q. Investment in your future?

22 A. Supposedly.

23 Q. All right. So, you're paying a reduced quota?

24 A. Yeah, for the information, for telling them where the
25 stores were at.

1 Q. Is this when you start working for the Barrio Azteca?

2 A. I start off a little bit like that, giving information,
3 giving them rides, taking them where they're at.

4 Q. At this point in time, um, are you what's referred to as an
5 esquina?

6 A. I was referred to as an esquina at that time.

7 Q. Is that a prospect, basically?

8 A. That's underneath a prospect, not really wanting your shoes
9 yet, not, you know, being a full member of Barrio Azteca.

10 Q. So you're at the bottom end of the hierarchy; is that fair
11 to say?

12 A. Yes, sir.

13 Q. Beneath you would be the people running the stores that
14 aren't involved at all with the BA, they're just paying the
15 quota fee?

16 A. Yes, sir.

17 Q. And in regards to the information that you were providing,
18 who were you giving information to?

19 A. I was giving it to Baltazar while he was in charge.

20 Q. He was in charge of what?

21 A. Sunland Park.

22 Q. Sunland?

23 A. Yes, sir.

24 Q. For who?

25 A. I don't know who was running at the time, who was in charge

1 above him.

2 Q. A poorly worded question. Was he in charge of Sunland Park
3 as the mayor or the chief of police?

4 A. He was in charge of the area of the Barrio Aztecas.

5 Q. For the Barrio Azteca?

6 A. Yes, sir.

7 Q. All right. So, you're going out and providing all this
8 information. Are you conducting investigations as to who's --
9 who the stores are?

10 A. Well, since I knew and I did -- I did cocaine. And I knew
11 where those stores were at, where to go pick up, who was
12 selling, you know, I let him know who wasn't paying or who was,
13 you know, starting up a new store.

14 Q. Okay. And did you open up stores yourself?

15 A. Yes, I did, sir.

16 Q. Would you tell the jury how you went about doing that?

17 A. I had a friend that we went to school to -- with. And he
18 was pushing. And I ended up meeting Peter through Balta and
19 grabbing some soda and some cocaine. And --

20 Q. Let me stop you there for a minute. You met Peter through
21 Balta?

22 A. Yes, sir.

23 Q. Who's Peter?

24 A. Peter is another dope dealer that supplies people all over.
25 He was a supplier that Balta was using.

1 Q. Is he associated with the Barrio Azteca?

2 A. No, sir.

3 Q. He's just a supplier?

4 A. Just a supplier.

5 Q. And Balta is the same Baltazar Gallegos you're talking
6 about?

7 A. Yes, sir.

8 Q. So you meet Peter. And does Peter become your source of
9 supply?

10 A. Yes, sir. He became my source where I started supplying
11 this other guy that started selling for me.

12 Q. Okay. And do you have to clear this source of supply with
13 the Barrio Azteca?

14 A. Yes, sir.

15 Q. Why is that?

16 A. Because it's your store. They look at it as, you know,
17 you're part of selling something, either way, if you're not
18 selling it directly, you're still selling, so you still got to
19 pay.

20 Q. And so does that source of supply that you're getting, does
21 that source of supply have to be aligned with the right people
22 that the Barrio Azteca are aligned with?

23 A. Yes, sir.

24 Q. In other words, if the Barrio Azteca is aligned with La
25 Linea from Juarez, can a source of supply supplying Barrio

1 Azteca members be the Sinaloa Cartel, who's the rival?

2 A. No.

3 Q. Why not?

4 A. Because that would be going against the Barrio Azteca.

5 Q. Would that cause problems?

6 A. Yes.

7 Q. So the source of apply has to be verified?

8 A. Yes.

9 Q. You said that you started getting somebody to sell for you?

10 A. Yes, sir.

11 Q. Did you charge that person quota?

12 A. Yes.

13 Q. And did you have anymore people selling for you?

14 A. No.

15 Q. All right. Um, what happens after that?

16 A. Um, they started selling drugs. After they started paying
17 the quota, they started dropping the quota on me after a while.

18 Q. Is that because your stores were doing so good?

19 A. Because I was relating more messages and helping out more
20 in the Barrio Azteca.

21 Q. What kind of other messages were you relating?

22 A. Just for -- like, if somebody needed a beat down or
23 whatever.

24 Q. Okay.

25 A. They would ask me.

1 Q. Let me ask you this, which time frame that you're talking
2 about -- um, is that around 2008, 2007, somewhere around that
3 time frame?

4 A. I don't recall exactly the time frame.

5 Q. Was it about the time that you got put on deferred for your
6 drug charge here in El Paso?

7 A. Um, I believe so.

8 Q. Okay. If that was around 2008, would that be fair?

9 A. Yes.

10 Q. Approximate time frame.

11 A. Approximate, yes.

12 Q. All right. Um, you said you started providing information
13 regarding beat downs to individuals. When was the first time
14 that you were involved in a beat down?

15 A. That I was involved?

16 Q. Let me ask you this. Let me ask it this way. When was the
17 first time that you relayed any information to anybody
18 regarding a beat down?

19 A. I think it was the time when Baltazar told me that one of
20 these guys didn't want to pay or something. I recall his name
21 was Shamu or something like that.

22 Q. Okay. And how were you told to relay that information
23 about the beat down?

24 A. He had told me that to tell one of the carnales, Diablo, to
25 do the beat down on this Shamu guy.

1 Q. Did you relay that information?

2 A. I relayed it, yes, sir.

3 Q. Were you present at that beat down?

4 A. No, sir.

5 Q. In regards to relaying information about beat downs, what's
6 going to happen if you relay false information about a beat
7 down? In other words, let's say you personally have a beef
8 with Shamu, and you say -- and you go tell Diablo, hey, I've
9 been told that Shamu needs to be beat down and Baltazar told me
10 to. Are you going to get in trouble for lying?

11 A. Yes, sir.

12 Q. What's going to happen?

13 A. You get the beat down.

14 Q. So, basically, if an order is given from above, you've got
15 to relay it correctly?

16 A. Yes, sir.

17 Q. All right. Did Shamu get beat down?

18 A. Yes, sir.

19 Q. Okay. When was the next time that you were either involved
20 or that you had to relay information regarding a beat down?

21 A. I recall another incident later on. It was -- I was
22 driving Espino and Bandit towards --

23 Q. Tell you what, before we get to that, let me turn your
24 attention to a person named Teco. Was there a person named
25 Teco that you remember?

1 A. Yes, sir.

2 Q. Who's this person?

3 A. Teco was in charge of the streets at the time when Baltazar
4 and Bobby Meza and all them got caught up.

5 Q. Okay. So there was a point in time when Bobby Meza and
6 Baltazar Gallegos got picked up?

7 A. Yes, sir.

8 Q. And a person named Teco took over the streets?

9 A. That he took over the street.

10 Q. When you're talking about taking over the streets, are you
11 talking about the Westside/Sunland Park area?

12 A. It was in -- he was of the Westside, I believe. So, yes,
13 sir.

14 Q. This Teco person, um, what did he do?

15 A. Um, he was in charge of the picking up the quotas and
16 turning them in.

17 Q. Was there a problem?

18 A. He got in trouble for taking the money and stealing it from
19 the Barrio Azteca.

20 Q. He got in trouble for stealing quota money?

21 A. Yes, sir.

22 Q. Um, and so did he get a beat down?

23 A. Um. No, I believe he got ordered a green light.

24 Q. What's a green light?

25 A. They ordered to take him or pick him up or beat down or

1 take him somewhere.

2 Q. Okay. Did you ever see or hear from Teco again?

3 A. No, I believe I saw him lately, past -- this month ago,
4 inside jail.

5 Q. Okay. Subsequently, um, did you participate in a couple of
6 other beat downs?

7 A. Um, it was another time when I was there at Espino's house.
8 And they called him up to -- to beat down Flaco.

9 Q. Okay.

10 A. I believe his name was Mark Balderrama.

11 Q. So he got a beat down as well?

12 A. Yes.

13 Q. And there's probably four or five other beat downs you were
14 part of as well; is that right?

15 A. Yes, sir.

16 Q. Um, did some of those beat downs involve what's called an
17 "orden de tacos"?

18 A. Yes, sir.

19 Q. What's an order of tacos?

20 A. Order of tacos was to beat you down for something that you
21 did wrong.

22 Q. Is there also something called a tacos with gravy?

23 A. Yes, sir.

24 Q. What's tacos with gravy?

25 A. That would be something more extreme to break your legs or

1 hands or something worse.

2 Q. Now, in some of these beat downs that you committed, were
3 they against other BA members?

4 A. They were against other BA members, yes, sir.

5 Q. And some of the beat downs, were you there, basically.

6 A. Either lookout or either driving them.

7 Q. Is there a rule that if you are not a full-fledged BA
8 member, that you can't touch another BA member?

9 A. Yes, sir.

10 Q. All right. I want to take you forward in time, then, to
11 around September or October, November, July 2010, all right?
12 Around that point in time, are you running with somebody known
13 as Jesus Espino?

14 A. Yes, sir.

15 Q. Who's that person?

16 A. Jesus Espino was in charge of the Westside.

17 Q. Okay. And Jesus Espino, did he have people working for
18 him?

19 A. Yes, sir.

20 Q. And who did he have working for him?

21 A. Um, his brother, Bandit.

22 Q. Okay. Let me pull up, if we could, what's been previously
23 in evidence as Government's Exhibit 16B-1. Do you recognize
24 that person? Who's that?

25 A. Jesus Espino.

1 Q. If we could also pull up Government's Exhibit 16G-1. Do
2 you recognize that person?

3 A. Yes, sir.

4 Q. Who's that?

5 A. Bandit, Carlos Perez.

6 Q. Okay. If we could also pull up Government's Exhibit 16H-1,
7 that's also been previously admitted into evidence. Do you
8 recognize that person?

9 A. Yes, sir.

10 Q. Who's that?

11 A. Cuate.

12 Q. All right. Now, these particular individuals, um, if we
13 could, switch over to the Elmo just right quick. Let me show
14 you what's been marked as Government's Exhibit 6GG and has been
15 previously admitted into evidence.

16 THE COURT: Do you want the jury to see this?

17 MR. LEAL: Yes, Your Honor.

18 Q. (By Mr. Leal) Can you see that okay up there?

19 A. Yeah.

20 Q. All right. So this -- who's at the top of that list?

21 A. Jesus Espino.

22 Q. Okay. Is that the Jesus Espino in that photograph that we
23 just looked at?

24 A. Yes, sir.

25 Q. In regards to Mr. Espino, there is a mark over here of

1 121 percent. Do you know what that means?

2 A. That means they're carnales, they're Barrio Azteca.

3 Q. Does that 21 mean he's doing a good job?

4 A. No, it's just --

5 Q. He's 121 BA?

6 A. Yeah.

7 Q. All right. Um, we're looking at a person here by the name
8 of Ricky Gonzalez. Is that J?

9 A. Yes.

10 Q. Is that the person you previously identified in that prior
11 photograph?

12 A. Yes, sir.

13 Q. Is he also a 121 percenter?

14 A. Yes, he's a carnal. He's an Azteca.

15 Q. Okay. Now, we're going to go down, little bit further
16 down, to this guy here. This -- that guy right there. Carlos
17 Perez, also known as Bandit. Is that the person you just
18 previously identified?

19 A. Yes, sir.

20 Q. He's a 121 percenter?

21 A. Yes, sir.

22 Q. All right. So he's done a good job for the BA?

23 A. Yes, sir.

24 Q. All right. Now, let me show you this person right here.
25 Who is this person?

1 A. That's me.

2 Q. Are you Primo?

3 A. Yes, sir.

4 Q. And it says right here, that you're a "prospe". What does
5 that mean?

6 A. I was a prospect at the time.

7 Q. Okay. And are you a 121 percenter?

8 A. I believe at that time, no.

9 Q. Does the list show that you're a 121 percenter, that you're
10 doing a good job?

11 A. It shows, yes, sir.

12 Q. You didn't know it got so high lately?

13 A. No.

14 Q. So you've got some 121 percenters you're running with, and
15 you're a 121 percenter yourself. What kind of things are you
16 doing for Jesus Espino around this time frame?

17 A. Could you repeat the question?

18 Q. Sure. Let me show you the date on this list just so you
19 know how well you were thought of. The date on the list is
20 September 6, 2010. Um, you're working for Jesus Espino at the
21 time?

22 A. Yes, sir.

23 Q. Was there a point in time during this summer and during the
24 fall when you were asked to look for weapons or bought a
25 weapon?

1 A. Yes, sir.

2 Q. Um, do you recall what kind of weapon it was?

3 A. I don't recall exactly. It was a handgun. Okay.

4 Q. Um, and in regards to that particular handgun, did you wind
5 up trading something for that handgun?

6 A. I think it was soda, soda.

7 Q. How much soda did you trade for the handgun?

8 A. I don't believe I recall how much. But they were selling
9 the soda to purchase the handgun.

10 Q. Who is they?

11 A. J. Porky.

12 Q. Okay. They were selling soda to purchase the handgun?

13 A. Yes, sir.

14 Q. What did they need a handgun for?

15 A. To protect themselves for the --

16 Q. To protect themselves from what?

17 A. From other gangs.

18 Q. Okay. Why would you need to protect yourself with a
19 handgun from other gangs?

20 A. So they won't, you know, catch you off guard or do
21 something to you without, you know -- you having to throw a
22 rock or something else.

23 Q. So at some point in time, you purchase this gun for them;
24 is that right?

25 A. At the time, yes.

1 Q. Did you give it to them?

2 A. Yes.

3 Q. Okay. And do they keep it safe for you at some point in
4 time? Do you leave it with one of them?

5 A. Yes.

6 Q. Who did you leave it with?

7 A. Espino.

8 Q. All right. Um, are you in the process of opening up stores
9 during this time frame?

10 A. They were opening stores, yes, at that time frame.

11 Q. Was there a point in time whenever you were running with
12 Cuate that you-all went to try and open up a store?

13 A. Yes, sir.

14 Q. One in particular that stands out in your mind?

15 A. Yes, sir.

16 Q. Specifically, around October 29, 2010?

17 A. Yes, sir.

18 Q. Um, around that time frame, um, were you working for the
19 Barrio Azteca?

20 A. Yes, sir.

21 Q. And were you still a prospect at that point?

22 A. I was still a prospect at the time.

23 Q. What was J at that point in time?

24 A. He was a carnal.

25 Q. Was he a full-fledged --

1 A. Full-fledged member, yes, sir.

2 Q. And on this particular date, did you-all go somewhere?

3 A. Yes, sir.

4 Q. Where did you go?

5 A. J had called me up to go open this store up. What I mean
6 by a store, is to go see if this person was selling drugs at
7 this -- in Vado or somewhere in New Mexico.

8 Q. Do you know what kind of drugs they were alleged to be
9 selling?

10 A. Cuate had told me that the person that had told -- her -- I
11 think Doobie was her name, was one of the sellers he had
12 selling, that she was selling -- Cookie was selling pot and
13 cocaine at the store.

14 Q. All right. And previously you mentioned the word soda. Is
15 that another word for cocaine?

16 A. Yes, sir.

17 Q. All right. So do you get into a car with Cuate?

18 A. Yes, sir. I was driving.

19 Q. And does Cuate have anything?

20 A. Cuate had a gun.

21 Q. How do you know he had a gun?

22 A. Because he mentioned it.

23 Q. He mentioned it to you?

24 A. Mentioned to me. And then I told him to call or to check
25 with Espino or -- he had to -- you know, about the gun because

1 he wanted to take a gun to a store.

2 Q. Let me ask it this way. Why was it important as far as you
3 were concerned that Cuate call Espino about the fact he had a
4 gun?

5 A. Um, because usually you never take guns to stores.

6 Q. In your experience?

7 A. In my experience, all the times that I went, I never took a
8 gun.

9 Q. Why is that?

10 A. Because it was never something that we do.

11 Q. All right. So does --

12 MR. LEAL: Can we switch back to the other machine?
13 Can you pull up 16H-1, please?

14 Q. So the person in 16H-1, you previously testified as Cuate,
15 right?

16 A. Yes, sir.

17 Q. Does Cuate call Espino?

18 A. Yes, sir.

19 Q. In front of you?

20 A. Yes, sir.

21 Q. And does he follow your suggestion and talk about the gun?

22 A. I believe so, yes, sir. He called Espino and told him that
23 he was going to take a 21.

24 Q. What does that mean?

25 A. Veinte uno, a gun.

1 Q. Okay.

2 A. I believe he called Espino. I don't know if Espino relayed
3 the message up higher or to whoever was in charge of -- Manny
4 or Peewee or whoever was in charge.

5 Q. Did anyone call you back and say that's a bad idea?

6 A. Espino, I guess, told Cuate it was all right to take the
7 gun.

8 Q. Did you-all go ahead and go over to that store?

9 A. Yes, sir.

10 Q. Um, and when you got over there to that store that was
11 supposedly selling pot or cocaine, tell the jury what happened.

12 A. When we got there to the -- to the place where the store
13 was at, the girl that Cuate was -- was using to push dope, um,
14 told us where the store was at. The person was selling
15 cocaine, her name was Cookie, I believe. And we got there, we
16 stopped, we parked, we got off. A gentleman came out.

17 Q. Let me ask you, who's we?

18 A. Me and Cuate.

19 Q. Okay. Just the two of you go in there?

20 A. Yes, sir.

21 Q. And you say you get out of the car, you walk up?

22 A. Yes, sir.

23 Q. Knock on the door?

24 A. No, sir. He came out towards the car where we were at.
25 The lights were out.

1 Q. Had you ever seen this person before?

2 A. No, sir.

3 Q. Do you-all talk to him?

4 A. Cuate starts talking to him.

5 Q. What does Cuate talk to him about?

6 A. Starts telling him that he wants to talk to Cookie. That
7 he knows they're selling drugs there. And that if they were
8 selling drugs, they need to pay quota, to pay taxes, I guess,
9 on selling their drugs. And the individual, um, I don't recall
10 his name, mentioned it -- he starts telling him that they don't
11 sell drugs there. And Cuate starts getting aggravated, telling
12 him that he wants to talk to Cookie. And the guy starts giving
13 him the runaround. This and this and that about, you know,
14 that they don't sell drugs there. So he gets aggravated. I
15 tell him, you know what, just give him your phone number, you
16 know, call him back later, you know, get in touch with her.

17 So he gives him the number. The phone, I call it, the
18 phone doesn't register, doesn't get it right, or doesn't click.
19 Um, Cuate gets aggravated, pulls out the gun, and then points
20 it at his head and cocks it and points it.

21 Q. Who's head?

22 A. At the guy's head, I don't recall his name.

23 Q. Okay.

24 A. The person he was talking with. Points it at his head and
25 tells him that he was -- if he thinks he was fucking around

1 with him, and he wasn't going to, you know, tolerate his
2 bullshit and all this. He starts cussing and --

3 MR. FOSTER: Judge, I'm sorry. I'm going to object to
4 continuing to do this narrative. There needs to be some
5 questions and answers.

6 THE COURT: All right.

7 MR. LEAL: I will break it up.

8 THE COURT: Thank you.

9 Q. (By Mr. Leal) Um, you said that he points the gun at the
10 head, um, asks him, you know, you think I'm F-ing around, not
11 going to deal with this BS, what happens after that?

12 A. I get nervous. I look around. I see a light in the
13 window. I tell him, hey, let's get out of here, calling the
14 cops. I jump in the car. He jumps in after me. We take off.

15 Q. What happens after that?

16 A. Two cars were coming or three, I don't remember. But it
17 was two cars first, one passed me, the second one was a cop,
18 turned on his lights. And we took off.

19 Q. Is Cuate in the car with you?

20 A. Yes, sir. Took off in the car. While he's driving, he
21 throws the gun away. I don't know. I got lost somewhere. It
22 was out in the woods somewhere. And I crashed. We both ran.
23 Both took off our own ways.

24 Q. Okay. So you crash. You both take off your own ways. Um
25 what, happens then?

1 A. Um, I get arrested. Cuate gets away. I call Espino to let
2 him know that we had gotten caught.

3 Q. All right. Let me ask you this. Does -- you say you get
4 arrested and you call Espino from the County Jail or where?

5 A. I had a cell phone in my -- I don't remember if I had
6 jacket or pocket or somewhere.

7 Q. All right. So are you calling Mr. Espino on the run or
8 where did you call him from?

9 A. From the backseat of the police car.

10 Q. Police car?

11 A. Yes, sir.

12 Q. So you call Espino. You tell him you've gotten in trouble.
13 Um, and what's, essentially, the message that you convey to
14 him?

15 A. That these people had called the cops on us. We had gotten
16 caught.

17 Q. And why is Espino the first person you call?

18 A. To let him know because he was in charge of the Westside.

19 Q. All right. So you're not going to call a relative or
20 somebody you know. You're going to call the person in charge
21 of the Westside?

22 A. No.

23 Q. So, um, what happens -- what happens when you call Espino?
24 What does he tell you?

25 A. Not to say anything. Just to be quiet, not to say anything

1 anymore.

2 Q. What do you do then?

3 A. Um, I turned off the phone, took out the chip.

4 Q. And what do you do with the chip?

5 A. I ate it.

6 Q. Ate the chip?

7 A. I ate the chip.

8 Q. Why did you eat the chip?

9 A. I thought that they might catch me and find the phone
10 numbers of the Barrio Aztecas.

11 Q. Basically, you ate it to protect, keep the police from
12 finding out contact information?

13 A. Yes, sir.

14 Q. All right. Did that give you a stomachache?

15 A. Yes, sir.

16 Q. All right. So you eat the chip --

17 MR. LEAL: May I have just a moment, Your Honor?

18 Q. All right. Um, can we pull up 33A-2, previously admitted
19 into evidence? And ask to play that for the jury, Your Honor.

20 THE COURT: You may.

21 (Audio being played.)

22 Q. All right. This particular audio exhibit, um, and the
23 transcript, um, do you recognize the voices?

24 A. The first voice, yes. Jesus Espino.

25 Q. Okay. Do you recognize the second voice?

1 A. Um, I believe it was Peewee.

2 Q. Okay. And who's Peewee?

3 A. Peewee is Omar Lopez.

4 Q. Is that a person that was higher up than Mr. Espino?

5 A. Yes, sir. He was in charge at the time. I think he was
6 sergeant.

7 (Audio being played.)

8 Q. For the record, 33A-1. In regards to this, Mr. Renteria,
9 um, you're talking about a 7-Eleven in that particular area,
10 um. Is that or -- they are talking about a 7-Eleven. Is that
11 what's referred to as the store?

12 A. Yes, that's referring to a person that was selling drugs.

13 Q. In this area here, there's a mention of you being on
14 probation. Were you on probation at the time?

15 A. Yes, sir, I was on probation at the time.

16 Q. Now, earlier today you talked about how that quota money is
17 supposed to be reinvested in case you get in trouble and it's
18 supposed to go to members and maybe help bond you out and
19 stuff. Um, is the money they're talking about using here to
20 help you out, is that coming from the money collected?

21 A. Yes, sir.

22 Q. So membership has some privileges on that. Okay. Let's
23 look at Government's Exhibit 33B-2 that's been previously been
24 admitted into evidence.

25 If you could, um, go ahead and play it.

1 (Audio being played.)

2 Q. Let me ask you this. Up to this point in time, who's been
3 having the conversation, talking?

4 A. It was Carlos Perez and Cuate.

5 Q. Okay. So, um, and what are they talking about?

6 A. Um, about the incident that happened in New Mexico.

7 Q. The incident where you got put in jail?

8 A. Yes, sir.

9 Q. And what are they talking about doing?

10 A. To bond me out.

11 Q. Okay. And, again, are they going to use that quota money
12 to bond you out?

13 A. Yes, sir.

14 Q. And is there another person on this phone call as well?

15 A. It was Jesus Espino.

16 Q. And Jesus Espino was he still in charge of the Westside?

17 A. Yes, sir.

18 Q. And there are some reports being given to him as to what
19 happened?

20 A. Yes, sir.

21 Q. Okay. And is the report also being given to Bandit as to
22 what happened?

23 A. Yes, sir. Cuate was relating the report to Jesus and --

24 Q. Why is that being done?

25 A. Because he needed to know what had happened. And who or

1 who -- what happened exactly out there in that store we were
2 trying to open.

3 Q. Why do they need to know that?

4 A. For the reason that they need to give that information to
5 the person that's higher than them.

6 Q. Okay. All right.

7 (Audio being played.)

8 Q. All right. Mr. Renteria, let me ask you this. There's a
9 portion in here where they're talking about this dude has
10 always been there for us. You know what I mean?

11 What does that mean?

12 A. That I was always an Esquina whenever they needed anything,
13 a ride or to drive or anything they needed, money.

14 Q. You've been there for them, basically?

15 A. Yeah.

16 Q. You're a 121 percenter?

17 A. I was working with them, yes.

18 Q. Okay. And then, um, down in this area here, they talk
19 about calling your wife. Um, and to tell her to call them
20 right away. Why do they want that to happen?

21 A. Because they wanted to see if they could bond me out.

22 Q. All these individuals, Jesus Espino, Bandit, Carlos Perez,
23 and Ricky Gonzalez, Cuate, were they all co-defendants in this
24 particular case with you?

25 A. Yes, sir.

1 Q. And they want your wife called so they can bond you out?

2 A. Yes, sir.

3 Q. Are they going to give her the money to do it?

4 A. Yes, sir.

5 (Audio being played.)

6 Q. All right. So were they in fact able to bond you out?

7 A. Um, no. Because I had a bond hold on my probation hold.

8 Q. All right. And is that the probation case that we talked
9 about earlier where you got put on probation for that deferred,
10 the possession?

11 A. Yes, sir.

12 Q. Um, so how much time did you wind up spending in jail?

13 A. I believe it was about 57 days or almost 60 days in New
14 Mexico.

15 Q. A month and a half to two months, basically?

16 A. Yes.

17 Q. Um, did you have any contact with Barrio Azteca while you
18 were in jail?

19 A. Um, there was another individual there.

20 Q. And who was that other person?

21 A. His name was Boxer.

22 Q. Okay. And what kind of contact did you have with him?

23 A. I guess he got a charge for, I don't know, some --
24 something simple. And as soon as he came in there, he told me
25 about what had happened. He wanted me to tell them. And my

1 probation or my lawyer -- somebody showed me some paperwork
2 that they give you there of what had happened in New Mexico.

3 Q. Somebody gave you a report?

4 A. Yeah, a report for -- I guess it was the police report of
5 what had happened, the incident that happened in New Mexico.

6 Q. All right.

7 A. So I gave the report -- well, before I mailed it out to my
8 wife, I showed it to -- to Boxer.

9 Q. Let me stop you there for a minute. You've got this police
10 report from what happens in New Mexico. Um, and you're showing
11 this police report to Boxer. What business of it is his?

12 A. So in case he could go and tell Espino what had happened.

13 Q. Okay. So you're wanting -- basically, it's information
14 provided to the organization?

15 A. Yes, sir.

16 Q. Um, okay.

17 A. Letting them know I hadn't talked or anything, just, I
18 guess, what the report was saying.

19 Q. I'm sorry? You said what?

20 A. I guess so they could see I didn't talk or anything.

21 Q. All right. You wanted them to know you were not
22 cooperating?

23 A. Yeah.

24 Q. Why was it important? Why was it important to you that
25 Espino know that you were not cooperating?

1 A. So, I guess, they wouldn't, you know, issue a green light
2 on me.

3 Q. Okay. And you're worried about a green light?

4 A. Yeah.

5 Q. And why were you worried about a green light?

6 A. Well, usually green lights aren't that good for when you
7 start talking.

8 Q. Okay. What does it mean to get a green light?

9 A. It could mean either you get killed or, you know, even
10 worse, family members or somebody else gets hurt.

11 Q. Okay. Um, so it was important for you that Mr. Espino know
12 you were not cooperating?

13 A. Yes, sir.

14 Q. At some point in time, do you get out of jail?

15 A. No, I believe it was after those 57 days or 53 days, I did
16 yes, sir.

17 Q. All right. When you get out of jail, um, do you have to
18 report to anybody?

19 A. Yeah. I still had to go tell somebody that I was out,
20 explain my point of view what had happened.

21 Q. All right. Who do you report to?

22 A. Jesus Espino.

23 Q. That's not Jesus Espino, probation officer or police
24 officer, right? That's the Barrio Azteca member?

25 A. Yes, sir.

1 Q. And what do you report to him?

2 A. Um, what had happened, how it happened out there in New
3 Mexico.

4 Q. Does anything happen after that?

5 A. Um, we -- he told me to later on go talk to Peewee.

6 Q. Okay. And do you do that?

7 A. Yes.

8 Q. And what happens then?

9 A. Go to -- we go to a hotel where Peewee was staying. And he
10 had said that if I wanted my huaraches at that time.

11 Q. What does that mean?

12 A. If I wanted to become a member of the Barrio Azteca. They
13 were willing to give it to me after that incident that happened
14 in New Mexico.

15 Q. So Peewee tells you you can have your huaraches if you want
16 them?

17 A. Yeah. Yes, sir.

18 Q. And that means becoming a full-fledged member of the Barrio
19 Azteca?

20 A. Yes, sir.

21 Q. Um, what was -- is there a particular term that's used for
22 Peewee as far as what he was to you, then, at that point in
23 time?

24 A. He was just -- well, at that point when we went to the
25 hotel, he was going to be my padrino.

1 Q. Omar was?

2 A. Omar.

3 Q. Were there --

4 A. And Espino. Espino was going to be my witness.

5 Q. All right. And is there anyone else in that particular
6 chain?

7 A. That they told me that whenever they get caught or whatever
8 you go to present yourself to another carnal and they ask you
9 for your papers or when you got to present them to somebody,
10 they would have to say who was your witness, who's your
11 padrino, and who's your penco.

12 Q. What's a penco?

13 A. A penco was a capo.

14 Q. And who was going to be your penco?

15 A. They mentioned Spooky.

16 Q. And had you met Spooky at that point in time?

17 A. No.

18 Q. Does there come a point in time when you do meet Spooky?

19 A. Yes, sir.

20 Q. And would you tell the jury how that happens?

21 A. I believe it was -- I don't remember exactly. It was
22 probably sometime December, late December or January. I don't
23 remember the time exactly.

24 Q. So late December 2010 or early January 2011?

25 A. I believe so. I'm not too accurate with the date. But

1 they had a -- Bandit called me. And Espino came over to the
2 house and they wanted to know if I could go over there with
3 them because they had a meeting.

4 Q. Go over where?

5 A. To this place, to a hotel they had a meeting at.

6 Q. Okay. And were you able to give them a ride?

7 A. Bandit had a van. And they were both drinking so they
8 asked me to drive.

9 Q. Did you drive?

10 A. I was driving.

11 Q. Did you get there?

12 A. Um, yeah, they passed me the phone. I was talking to -- I
13 believe, to Omar or Peewee, Manny, talking to Manny at the
14 time.

15 Q. Okay. What happened then?

16 A. They gave me instructions to go drive to the hotel. We get
17 off at the hotel, walk. They give us a door number. We knock.
18 As soon as we knocked, somebody looked through a peephole or
19 through the window. And we went inside.

20 Q. Okay. When you go inside, what happens?

21 A. There's about 20 or more people inside this room.

22 Q. Do you recognize any of those people?

23 A. Couple of them that were there.

24 Q. Who did you recognize when you walked in?

25 A. Um, the one I recognized was Chucky.

1 Q. Is that somebody that's been indicted with you in this
2 case?

3 A. Yes, another person in the indictment with me.

4 Q. Okay. Who else?

5 A. Um, there was another guy, Beto, that was there. I don't
6 really recall too many. There was, like, a lot of them.

7 Q. So they open the door, let you go inside. What happens
8 when you get inside?

9 A. Um, we start shaking hands. They start greeting us. They
10 say that Ramon, Spooky was there. That it was -- my padrino
11 was there.

12 Q. Who says that?

13 A. I believe it was -- it was Bandit.

14 Q. Okay. Do they introduce you to this person?

15 A. They quickly mentioned him real quick, yes.

16 Q. Do they point him out to you?

17 A. Yes.

18 Q. And do you go over there and shake his hand?

19 A. Yes, sir.

20 Q. Do you see the person that they pointed out to you as Spook
21 or Spooky in the courtroom here today?

22 A. Yes, sir.

23 Q. Can you point that person out and tell the jury where that
24 person is sitting down or standing and something that person is
25 wearing?

1 A. Right there. He's wearing a blue shirt, blue tie.

2 MR. LEAL: Your Honor, may the record reflect that the
3 witness identified the defendant?

4 THE COURT: It will so reflect.

5 Q. (By Mr. Leal) All right. So they introduce you to this
6 person and to the defendant. And what's significant about the
7 introduction to the defendant? Who is the defendant to you?

8 A. Um, he was the capo that gave me my huaraches.

9 Q. So he's what you call penco?

10 A. Yes, sir.

11 Q. All right. So does anything else happen inside this room?

12 A. Once we entered and everything, before the meeting starts
13 and everything, they take us to the back, and make us strip,
14 search us, take our clothes off, put a magnet wire so they
15 could search for bugs or if you're wearing a wire.

16 Q. Okay.

17 A. Make you turn off the phones.

18 Q. Let me ask you this. Do you strip down?

19 A. To your boxers.

20 Q. To your boxers?

21 A. Yes, sir.

22 Q. Do they find a wire or bug on anybody?

23 A. No, sir.

24 Q. And then you're supposed to turn in your phones?

25 A. Turn off your phones.

1 Q. Off?

2 A. Put them all together and turn them off.

3 Q. And does everyone do that?

4 A. Yes, sir.

5 Q. And do you do that?

6 A. Yes, sir.

7 Q. What's the next thing that happens?

8 A. Um, they introduced me. He asked me if -- talking about
9 Spooky.

10 Q. The defendant?

11 A. Yeah.

12 Q. What does he --

13 A. What had happened out there in New Mexico, to let him know
14 exactly what was going on out there. That's what he wanted
15 know.

16 Q. What do you tell him?

17 A. I tell him the same story about when we got there, about
18 the store we went to. And, um, as soon as I tell him that what
19 happened, this guy was, you know, got mad because Cuate was
20 asking him to give the information where Cookie was, that he
21 pulled out a gun. And he asked me if that was the right store.
22 If that wasn't, you know, if we had gotten the right address.
23 And as soon as I told him yes, he goes "va a tumber".

24 Q. What does that mean?

25 A. That means they're going to get knocked down.

1 Q. Okay. And they're going to get knocked down. Is that the
2 store?

3 A. Yeah, that Cookie was going to go and -- you know, knock
4 her down. Take down whatever she had, or if she's still
5 pushing or whatever they had to do to make her pay.

6 Q. So you provide this information to the defendant. He tells
7 you this. Um, what's the next thing that happens?

8 A. He starts talking about how people are over there in Juarez
9 taking to the other side; they're going with -- gente
10 contraria. They're going with the other side of the people
11 that are Barrio Aztecas, going with the other people that are
12 working with, I guess, Chapo.

13 Q. You mean the rival cartel?

14 A. The rival cartel.

15 Q. And what else does the defendant say?

16 A. Um, that Manny was in charge of all the drugs that were
17 coming in from Juarez. And anybody that needed to pick up
18 cocaine, heroin, anything from the drugs proceeds, everything
19 was going through Manny. The chain of command had to be
20 followed up.

21 Q. Okay. And from this meeting, who was at the top of the
22 chain of command in El Paso, to your understanding?

23 A. At this time, it was Ramon.

24 Q. Okay. And when you talk about Ramon, are you talking about
25 --

1 A. Talking about spooky, yes.

2 Q. The defendant?

3 A. Yes, sir.

4 Q. And just incidentally, you and the defendant share the same
5 last name. Are you-all related in any way?

6 A. No, sir.

7 Q. So this happens at this meeting. What's the next thing
8 that happens after he says Manny is going to be in charge of
9 this? Was it your understanding that the defendant was above
10 Manny. Defendant's the one in charge of El Paso?

11 A. Yes, the defendant was there. Yes.

12 Q. Okay. Um, and so does the meeting continue? And do
13 you-all leave? What happens?

14 A. Yeah, that -- there was another guy there. I don't recall
15 his name. Um, he had a tattoo on his side, that he mentions
16 that was going to be his right-hand man.

17 Q. Who's right hand man?

18 A. Ramon, Spooky's right-hand man.

19 MR. FOSTER: Objection, he can't recall the name of
20 the person. It's pure hearsay.

21 THE COURT: I'll overrule the objection.

22 Q. (By Mr. Leal) Just for clarification's sake, it's the
23 defendant making the statement about the right-hand man?

24 A. Yes, the defendant was making the statement.

25 Q. You don't remember what the name of the right-hand man was?

1 A. No, sir.

2 Q. But it's the defendant making this statement?

3 A. Yes, sir. That he was pointing it out, that guy was going
4 to be his right-hand man.

5 Q. All right. So what's the next thing that happens?

6 A. Um, time got quickly, and we started -- everybody started
7 leaving.

8 Q. Did you leave?

9 A. Everybody starting leaving, yes, sir.

10 Q. Who did you leave with?

11 A. Um, Bandit and Espino.

12 Q. All right. Um, did you say good bye to the defendant at
13 all or head out the door?

14 A. Everybody started shaking everybody's hand and everybody
15 starting leaving.

16 Q. Okay. And did you get back in the van?

17 A. Yes, we all got back in the van.

18 Q. And after this meeting, were you, basically, a full-fledged
19 member of the Barrio Azteca, for sure?

20 A. Yes.

21 Q. And did you -- do you recall if you were introduced to
22 everybody at that meeting or not?

23 A. We shook hands. And I don't recall, like, a lot of their
24 names but, yes.

25 Q. Um, after you left the meeting, did you wind up doing work

1 for the Barrio Azteca? After you left that meeting, did you
2 wind up doing any work for the Barrio Azteca?

3 A. Yes.

4 Q. What kind of work did you do for the Barrio Azteca?

5 A. I went to go pick up some heroin for Espino and them to
6 take to his brother.

7 Q. So you kept doing the same kind of stuff you did prior to
8 going in jail?

9 A. Yes.

10 Q. Did you keep doing that until you got subsequently picked
11 up on the indictment?

12 A. Yes, sir.

13 MR. LEAL: May I have just a moment, Your Honor?

14 THE COURT: Sure.

15 MR. LEAL: Pass the witness, Your Honor.

16 THE COURT: Mr. Foster.

17 CROSS-EXAMINATION

18 BY MR. FOSTER:

19 Q. Okay. Mr. Renteria, I want to make sure I'm clear on a few
20 points. You've had a federal charge for possession with intent
21 to distribute marijuana?

22 A. Excuse me?

23 Q. You had a federal conviction for possession with intent to
24 distribute marijuana?

25 A. Yes, sir.

1 Q. You've had possession of controlled substance in Texas?

2 A. Yes, sir.

3 Q. And you had another possession of controlled substance in
4 Texas. You've had three drug charges; is that right?

5 A. No, I believe it was two, sir.

6 Q. Let's see, I have one of February 1st; that's the federal
7 case in New Mexico.

8 A. Yes, the marijuana, yes, sir.

9 Q. Okay. I have one, November 20, 2007, possession of
10 controlled substance, penalty group less than one gram, in El
11 Paso, where you got three years deferred, right?

12 A. Yes, sir.

13 Q. Another in October 19, 2008, possession of controlled
14 substance, penalty group one less than one gram?

15 A. No, I believe that was --

16 Q. Was that motion to adjudicate, the motion to revoke your
17 probation for the previous charge I just talked about?

18 A. No, sir. I believe it was just one -- one incident with
19 that.

20 Q. And so part of your plea agreement is 240 months, 20 years
21 confinement, that's what you're expecting to get?

22 A. Um, expecting a little bit leniency, yes, sir.

23 Q. You're hoping to get a little less because of your
24 testimony here if you just knock them out of the ballpark
25 right?

1 A. I expect at least something, if not, whatever God judges
2 me.

3 Q. They also promise not to use any of your prior convictions
4 against you, right? For enhancements, isn't there a program on
5 no use of prior convictions?

6 A. I believe so.

7 Q. Did your attorney discuss with you that you're eligible for
8 the career offender with the two prior drug charges?

9 A. I don't believe we went through a lot of them. But I
10 believe if it's there, it's there.

11 Q. So that's what that's talking about when they talk about
12 not using the prior drug convictions, right?

13 A. Right.

14 Q. You participated in not just selling drugs. Did you also
15 use drugs?

16 A. Yes, sir.

17 Q. What kind of drugs did you use?

18 A. Cocaine, sir.

19 Q. Use heroin?

20 A. No, sir.

21 Q. You talked about using \$60, \$70 a week.

22 A. Maybe more, yes, sir.

23 Q. How much would you buy in grams?

24 A. Like, since the store -- from what I was pushing, the guy
25 that was pushing, I grab some from there and use from there.

1 Try to sell whatever we could and double up just to pay back
2 the person.

3 Q. When's the last time you used cocaine?

4 A. I've been incarcerated already about a year and a half
5 here, sir.

6 Q. Right up to the time you were put into jail?

7 A. Yeah. Yes, sir.

8 Q. You also participated in extortion?

9 A. Yes, sir.

10 Q. You got a tattoo that has number 21 on it?

11 A. No, sir.

12 Q. No? You don't have one of those?

13 A. No, sir.

14 Q. You said you saw Teco in jail. Who else have you seen in
15 jail that's involved in this case?

16 A. Just all the defendants that are in jail.

17 Q. So when you talk about going to this, um -- collecting --
18 this big chase where you were collecting this quota at this
19 store and they refused and the gun was pulled, you were an
20 esquina during that time, right?

21 A. I was a prospe. Prospeto. Prospect, yes, sir.

22 Q. How is that different from an esquina?

23 A. Esquina was little bit lower than a prospe. It would be
24 just, you know, doing favors, also, but not too much involved.

25 Q. When did you begin to pay your quota?

1 A. Um, when I started -- when I got there. When I got to that
2 talk to Balta and them, back in 2008, I believe it was.

3 Q. Okay. You remember about when in 2008, maybe, what season
4 it was?

5 A. I don't remember.

6 Q. Do you remember if it was, like, early 2008 or late 2008?

7 A. I don't recall.

8 Q. Just sometime in a 12-month period.

9 A. I believe so.

10 Q. Do you read, write and understand the Spanish language?

11 A. I read it a little and write a little, yes. Not too well,
12 but, yeah.

13 Q. When you talk to the brothers, do you talk to them in
14 English or Spanish?

15 A. Little bit of both. Depends if one can speak English or
16 the other one can't speak Spanish or. . .

17 Q. So during this time that you were a prospeto, you got your
18 orders from Teco, I believe, it was. T-E-C-O?

19 A. Teco.

20 Q. Yeah, is that who you got your orders from?

21 A. What time are you talking about; what period of time?

22 Q. Well --

23 A. Because that was --

24 Q. I'm going back.

25 A. A while back with Teco.

1 Q. When -- is that with Teco then?

2 A. I believe it was early 2008 or -9 maybe.

3 Q. Okay. You participated in beat downs with him?

4 A. Not with him.

5 Q. For him?

6 A. It wasn't a beat down. It was just -- I believe they had
7 told him that they had stolen the drug proceeds, the quotas.

8 Q. I'm not talking about Teco getting a green light. I'm
9 talking about participating with beat downs on other brothers?

10 A. Yes.

11 Q. I thought you weren't supposed to do that until you were a
12 full BA?

13 A. I participated in just like being there, but not touching
14 them.

15 Q. They needed a witness?

16 A. No. Well, usually, either they needed a ride, or I was
17 there at the moment, or at the timing, something happened that,
18 you know, they only had two, three carnales or three Aztecs
19 were there.

20 Q. When you talked about trading soda for a handgun. What are
21 you talking about when you say soda?

22 A. Cocaine.

23 Q. You don't know how much cocaine you traded for it?

24 A. I believe -- I don't recall exactly.

25 Q. You don't recall --

1 A. Half an ounce. I don't remember.

2 Q. You don't know what kind of handgun it is?

3 A. It was a handgun, I believe.

4 Q. That's all you can say about it?

5 A. Yes, sir.

6 Q. And I recall that you testified you usually never take guns
7 to stores; is that right?

8 A. Yes.

9 Q. Why is that?

10 A. Well, apparently, usually, all the stores would be open.
11 Opening a new store, you wouldn't -- you wouldn't know if they
12 were rivals or not.

13 Q. So you just don't take guns to a store on a regular basis.
14 You've got to get approval?

15 A. Yeah, you get approval from up high or somebody else to
16 acknowledge that you were taking a gun.

17 Q. And the case with Cookie, Manny approved it?

18 A. Um, I believe so. Cuate had called Espino, and Espino
19 probably called up higher.

20 Q. Wait a minute. If he probably called, then you don't know
21 for sure, right, you're guessing?

22 A. No. I was there when Cuate called.

23 Q. Cuate called?

24 A. Cuate, Espino.

25 Q. But you don't know who Espino calls unless you were there

1 to know the call, right?

2 A. Well, apparently, that's the way it's supposed to come back
3 with the chain of command. They have to call one person that's
4 in charge of your area.

5 Q. Okay.

6 A. This other person has to call this other person.

7 Q. You've answered my question, sir. Thank you. So when you
8 were arrested on that night, you said you kept a cell phone
9 with you in the police car.

10 A. I believe the officer either missed it, or he left it
11 there, I don't know. But I had it. I don't remember exactly,
12 but I think I had it in one of my sweater -- he might have
13 missed it.

14 Q. Did he pat you down?

15 A. He pat me down.

16 Q. And you were handcuffed?

17 A. I was handcuffed.

18 Q. Behind your back?

19 A. I believe in my back, yes.

20 Q. Just how did you get your cell phone out to start making a
21 call if you're --

22 A. I think I had it in my -- in my sweater. I believe I just
23 pulled the sweater back pulled out the phone, dialed the
24 number.

25 Q. And you ate the phone chip?

1 A. Yes.

2 MR. FOSTER: Could we go to 33A-2? I don't need
3 audio.

4 Q. You were asked about a couple of phone calls. I'm going to
5 show you 33A-2. If you could scroll to the next page right
6 there, I believe. Let's see if I can find -- see that line
7 that I've circled.

8 A. Yeah.

9 Q. What does that mean?

10 A. (Speaking Spanish) That means that that person called the
11 cops. That person we went to for the store. They had called
12 the cops.

13 Q. So it doesn't necessarily translate "he shot his mouth off,
14 bro", does it?

15 A. That what?

16 Q. It doesn't necessarily translate which is directly over to
17 the right that the person shot his mouth off. He called the
18 cops. He snitched. Doesn't mean he shot his mouth off. It's
19 a little different, isn't it?

20 A. Well --

21 Q. That's okay.

22 A. That's a literal translation. But. . .

23 Q. I'm going to circle an area. Do you see what I'm circling
24 there? JE to the side? You see what I'm circling there?

25 A. Could you blow it up?

1 MR. FOSTER: Can we have this published?

2 THE COURT: Sure. He needs it a little bit bigger.

3 Q. (By Mr. Foster) You see where I've circled?

4 A. Yes.

5 Q. Looks like they're talking about using the money to get the
6 brother out of bond, doesn't it?

7 A. Yes.

8 Q. Now, the Spanish, the left-hand column, can you look at
9 that for a minute?

10 A. Yes, sir.

11 Q. Read it to yourself. Okay. Doesn't that more closely
12 translate, let's get the money together so we can get the
13 brother out on bond. Isn't that what that's talking about?

14 A. It's actually telling you that they got the money and the
15 money can be replaced.

16 Q. Be borrowed?

17 A. Borrowed from the Barrio Azteca, yeah.

18 Q. It's not given. Can we scroll up just -- hold on. That's
19 okay. You can cut, thank you. So, basically, getting arrested
20 and driving and going through all this problem, that's what
21 earned you your huaraches here; is that right?

22 A. I believe so, yes, sir.

23 Q. No blood involved here?

24 A. No, sir.

25 Q. Correct. Oh, on -- this meeting, you go into this meeting

1 you -- you became the designated driver for the meeting?

2 A. Yes, sir.

3 Q. What hotel did you go to?

4 A. I don't recall the name of the hotel.

5 Q. Do you recall the room number?

6 A. No, I don't, sir.

7 Q. When you had to turn your cell phones off, did they make
8 you take the chips out?

9 A. No.

10 MR. FOSTER: I will pass the witness.

11 THE COURT: All right. Mr. Leal?

12 MR. LEAL: Briefly, Your Honor.

13 THE COURT: Okay.

14 REDIRECT EXAMINATION

15 BY MR. LEAL:

16 Q. Mr. Renteria, just a couple of things I want to clear up
17 with you. Um, you mentioned that you traded that eight ball of
18 cocaine for a handgun. Was it a handgun or rifle?

19 A. Handgun.

20 Q. Okay.

21 A. Handgun, rifle, yes.

22 Q. I'm sorry? It was a rifle?

23 A. It was a rifle, yes. That was another -- yeah.

24 Q. Was that -- that was another one?

25 A. Yeah.

1 Q. So there was two that you wanted to trade in cocaine for?

2 A. Yes.

3 Q. All right. Was there one of those rifles that was found
4 subsequently at Bandit's house?

5 A. Yes, sir.

6 Q. During the search? Let me show you what's been marked and
7 admitted into evidence as Government's Exhibit 11H.

8 MR. LEAL: May I approach?

9 THE COURT: You may.

10 Q. (By Mr. Leal) Does that look familiar?

11 A. Yes.

12 Q. Is 11H what you traded for?

13 A. Yeah.

14 Q. In regards to 11H, why would you trade for something like
15 that?

16 A. I had it there for protection.

17 Q. From what?

18 A. From anybody.

19 Q. Anybody, like who?

20 A. Anybody against -- that would want to do me harm.

21 Q. All right. Mr. Foster asked you about your cooperation
22 agreement and what you were hoping to get out of this. Um, and
23 it's actually the judge you're sitting in front of that decides
24 whether or not you get a lesser sentence; is that right?

25 A. Yes, sir.

1 MR. LEAL: Pass the witness.

2 THE COURT: Anything further?

3 MR. FOSTER: No questions further, Judge.

4 THE COURT: Is he excused as a witness?

5 MR. LEAL: Yes, Your Honor.

6 MR. FOSTER: I have no objections.

7 THE COURT: You may step down. You're excused.

8 Government may call their next witness.

9 MR. SKARET: Fernando Carrillo Candia.

10 THE COURT: Is now a good time for a short break?

11 Let's take a short break.

12 You remain under all the instructions the Court has
13 previously given you. See you at 2:30.

14 (Jury leaves courtroom.)

15 (Recess.)

16 COURTROOM DEPUTY: Court is back in session.

17 THE COURT: Ready to bring in the jury?

18 MR. SKARET: Yes, Your Honor.

19 THE COURT: Okay.

20 (Jury enters courtroom.)

21 THE COURT: You may be seated, Ladies and Gentlemen.

22 Mr. Skaret, whenever you're ready. All right. The
23 Government has called our next witness. Um, he has not been
24 sworn in yet. Whenever you are ready.

25

FERNANDO CARRILLO CANDIA, SWORN

DIRECT EXAMINATION

MR. SKARET: Mr. Martinez, if we could have the Elmo turned on, before I forget.

BY MR. SKARET:

Q. Good morning, sir -- pardon me. Good afternoon. Would you please introduce yourself to the jury and spell your last name more the court reporter?

A. My name is Fernando Carrillo Candia. My last name is C-A-R-R-I-L-L-O.

Q. And what is your country of citizenship?

A. I was born in Juarez, Mexico.

Q. And have you ever been a member of the Barrio Azteca?

A. Yes, I do.

Q. When did you join?

A. 2000.

Q. Are you still a member?

A. Yes, I do.

Q. As of -- when you get off the witness stand, will you be a member of the Barrio Azteca?

A. Not anymore.

Q. Are you currently serving a federal prison sentence here in the United States?

A. Yes, I do.

Q. What is that sentence for?

David A. Perez, RMR, RPR

1 A. It's for illegal re-entry, 60 months.

2 Q. What does is illegal re-entry mean?

3 A. I don't got no papers to be in the United States.

4 Q. How long is -- how much longer do you have on that 60-month
5 sentence?

6 A. Two years and a half.

7 Q. Do you have any history of drug use?

8 A. Yes.

9 Q. What is that history?

10 A. Marijuana, cocaine, alcohol.

11 Q. When did you start using those drugs?

12 A. When I was around 15 years old.

13 Q. Have you been using them consistently since then?

14 A. Yes, I do.

15 Q. When was the last time you used illegal drugs?

16 A. Back in 2010 before I got arrested.

17 Q. Now, you said you've been a BA since about the year 2000.

18 Is it against BA rules to cooperate with the United States
19 government?

20 A. Yes.

21 Q. Why are you doing it?

22 A. Because I want to get out from this gang. I'm tired to be
23 following something it's not worth it. And, um, the only --
24 they only going to take me to end up life in prison or even
25 death. And I'm done with that.

1 Q. You made a lot of bad choices in your life?

2 A. Yes, I do.

3 Q. What are you hoping to get from cooperating, aside from
4 doing the right thing?

5 A. They going to look for my safety and my family's safety.

6 Q. Has anyone promised you that you would get a reduction in
7 your current sentence?

8 A. No.

9 Q. Are you hoping to get out early?

10 A. Yes, I do.

11 Q. Who is ultimately in charge of whether you do get a
12 reduction?

13 A. The judge.

14 Q. Have prosecutors made promises to you regarding the witness
15 security program?

16 A. No.

17 Q. Are you sure?

18 A. Yes.

19 Q. Have prosecutors applied for the prisoner witness security
20 program on your behalf?

21 A. Yes.

22 Q. What do you know about that program?

23 A. It's about my safety.

24 Q. All right. And how is it that that program helps provide
25 for your safety?

1 A. They're going to put me apart of all the BA members --
2 apart.

3 Q. Is there any guarantee you will be admitted into that
4 program?

5 A. No.

6 Q. Has the prosecution made any promises to you about sending
7 you back to Mexico after your sentence?

8 A. No.

9 Q. Has the United States made any promises to you about
10 ensuring the safety of your immediate family?

11 A. Yes.

12 Q. What are those promises?

13 A. Just look about the safety, see if there's any problem with
14 the BAs or. . .

15 Q. So that is -- that's the United States' part of the deal.
16 What's your part of the deal?

17 A. Just be cooperating and give my statement. The better I
18 can do and help them out the best way I can do it.

19 Q. Is your deal to help out the United States or to testify
20 truthfully?

21 A. Yes, I do.

22 Q. To what? Pardon me?

23 A. Yes.

24 Q. Which is it? Is it to do your best for the United States
25 or to testify truthfully?

1 A. Both.

2 Q. Has any agent in the case ever asked you for anything more
3 than the truth?

4 A. No.

5 Q. Has any prosecutor ever asked anything more than the truth?

6 A. No.

7 Q. I would like to talk about your personal history. You said
8 you were from Juarez, Mexico. When did you first come to the
9 United States?

10 A. Just to help my visa. And I was coming back and forth
11 before I get arrested.

12 Q. And, approximately, when was it that you first came to the
13 United States? How old were you?

14 A. Around five, six years old with my parents.

15 Q. Did you live here in El Paso?

16 A. No.

17 Q. When did you first have problems with the law?

18 A. When I got arrested back in January 2000.

19 Q. What did you get arrested for?

20 A. Possession, intent more than 1,000 pounds of marijuana.

21 Q. Was that here in El Paso or in Mexico?

22 A. No, it was in here in New Mexico.

23 Q. And just tell us briefly about that charge.

24 A. They just got me with possession, intent, try to smuggling
25 drugs from Juarez to the United States. And I got arrested

1 from the Border Patrol.

2 Q. And who's drugs did that belong to?

3 A. To one of my uncles.

4 Q. And was your uncle related in any way to the people in the
5 Juarez drug cartel?

6 A. Yes.

7 Q. Now what is the Juarez drug cartel?

8 A. It's the main guys who run all the drugs in Ciudad Juarez.

9 Q. And by doing that job that got you in trouble. Were you
10 trying to join up with the Juarez cartel?

11 A. Yes.

12 Q. Why were you wanting to join?

13 A. Because I got a hard life. And I tried to get the easy
14 life.

15 Q. Were you convicted of bringing over all that marijuana?

16 A. Yes.

17 Q. And what was your sentence?

18 A. 37 months.

19 Q. What prisons did you serve the majority of your time on
20 that 37 months sentence?

21 A. It was in Pecos, Texas and Big Spring.

22 Q. When you finished up your sentence there, where were you
23 sent?

24 A. They deport me back to Mexico.

25 Q. All right. You mentioned you became a Barrio Azteca member

1 in 2000. Where were you when you joined?

2 A. I was in Pecos, Texas.

3 Q. That's when you were serving that drug sentence?

4 A. Yes.

5 Q. Why did you want to join at that time?

6 A. It was just two options, be a Barrio Azteca or be "Paisa".

7 Q. Why were those the only two options?

8 A. They're the only guys who they walk on the population, on
9 the yard.

10 Q. And what did you have to do to join?

11 A. I got -- put myself in -- prove the gang members I got love
12 on them.

13 Q. And what did you do to prove yourself?

14 A. I beat up five guys during four or five months period.

15 Q. Who are those five guys?

16 A. It was rival gang members.

17 Q. Who was their gang?

18 A. Border Brothers.

19 Q. And when you say they were rivals, were the BA at war with
20 that gang?

21 A. Yes.

22 Q. So how did you beat these guys up?

23 A. Um, I used to work on R and D. And --

24 Q. Is that receiving and discharge?

25 A. Yes.

1 Q. Go ahead.

2 A. And I look at the files. Every time these people came into
3 the prison before they got them -- and I was the -- my job --
4 it was part -- as soon as they got cleared from arriving, I was
5 the guy who take these people to the -- to their units.

6 Q. Once you took them to their units -- let me go back a step.
7 You would receive, basically, their application as they're
8 coming into the prison?

9 A. Yes.

10 Q. Was their gang affiliation listed on those applications?

11 A. Yes.

12 Q. So you knew who was who before they even got there?

13 A. Yes.

14 Q. And you mentioned you'd take them to the cell. What would
15 you do when you got them to the cell?

16 A. It was like some people -- some guys, they go to -- depends
17 on the unit they went. And, um, as soon as I put these people
18 in their unit, I hold the rival gang member to stay some space
19 where they can get -- can't get us on camera or security
20 guards. And after I put the people on their units, I beat them
21 up.

22 Q. And what kind of beatings are we talking about? How
23 serious?

24 A. Punching, kicking till they bleed. Broken teeth, broken
25 jaws, ribs.

1 Q. Were those particular victims able to walk away from the
2 beatings?

3 A. No.

4 Q. How were they taken out?

5 A. With a stretcher bed.

6 Q. With what?

7 A. Stretch bed.

8 Q. A stretcher?

9 A. Yeah.

10 Q. At that point had you proved yourself?

11 A. Actually, I did it three times by myself. And that's not
12 supposed to be like that. And they told me to quit doing that.
13 The last two they send me with another two guys. And after
14 that, I beat up those five guys. And I get some disciplinary
15 action. And I don't tell nobody I got out from the special
16 housing unit. And they offered me to become a member from the
17 Barrio Azteca.

18 Q. You mentioned "they" a couple of times. Who's -- you said
19 beat up three guys and they told me to stop doing it by myself.
20 Who's they?

21 A. The Barrio Azteca members.

22 Q. So then the last two beatings of these five that you
23 mentioned, is that with the Barrio Azteca?

24 A. Yes.

25 Q. And who ordered you to do those particular beatings?

1 A. It was the name in charge. It was Fresa. His name is
2 Alberto Nunez.

3 Q. All right. So Fresa told you to beat up these -- these two
4 Border Brothers, I presume?

5 A. Yes?

6 Q. And were those beatings the same that you had handed out
7 before?

8 A. Yes.

9 Q. Just with three people against one?

10 A. Yes.

11 Q. After the last two beatings, what happened to you? Were
12 you -- did you still have your job in R and D?

13 A. No, they fired me.

14 Q. Where did they put you?

15 A. They put -- gave me a disciplinary action. I spent 30 days
16 in solitary. And I got out. And I was just in the unit
17 working in the unit.

18 Q. Did you still have to prove yourself coming out of
19 solitary?

20 A. Actually, it's when they came to me and offered me if I
21 want to become a member.

22 Q. So who, specifically, asked you to become a member?

23 A. Alberto Nunez, Fresa. And at that time it was like around
24 eight to ten members. And most of them they asked me if I want
25 to join them.

1 Q. So this particular individual, Fresa, did he do anything to
2 move the ball on your membership?

3 A. Yes.

4 Q. What did he do?

5 A. He put word for me and sent my name to one of the capos
6 from the gang.

7 Q. Which capo?

8 A. Manuel Cardoza.

9 Q. And what was his nickname?

10 A. Tolon.

11 Q. And did you ever hear back from Tolon?

12 A. No.

13 Q. Did you get a letter back from Tolon?

14 A. Yes.

15 Q. Did you become a Barrio Azteca member?

16 A. Yes.

17 Q. And did Tolon become your padrino?

18 A. Yes.

19 Q. Was that a good thing for you?

20 A. At the time it was good because I didn't know what was I
21 was getting into it. They never told me what was the risk or
22 the danger. Actually, they didn't do -- allow to tell you
23 nothing till you became a member.

24 Q. Is it good to have a BA captain actually be your padrino as
25 opposed some other guy on the street?

1 A. Yes.

2 Q. Why is that good?

3 A. Because it's one of the highest rank in -- in the gang.

4 Q. Do you have any special privileges in regards to access to
5 that captain if he is your padrino?

6 A. Sometimes.

7 Q. Can you write to that captain?

8 A. Yes. Um, depends on the actions you're doing or the
9 trouble you're into. You can write the captain or your padrino
10 and let them know what's going on in the deal. And sometimes
11 going to put word for you to calm down everybody or the people
12 who's trying to -- to put something on you or whatever.

13 Q. All right. Let's move ahead a little bit. You're a
14 full-fledged BA member. Was there ever a large prison fight at
15 the Pecos prison after you became a member?

16 A. Yes, it was a riot.

17 Q. What happened at that riot?

18 A. It was -- one of the Border Brothers came into the
19 population. He don't supposed to be there. And the Paisas
20 tried to back him up, tried to keep him on the yard because
21 they let us be on population. And the BAs -- it's -- they
22 can't stay over there with us because we got war. And the
23 Paisas they say like they're not going to stay here. You're
24 not going to be either.

25 Q. So was the Barrio Azteca controlling who could and who

1 could not walk outside in the yard?

2 A. Actually, it was against rival gang members.

3 Q. All right. And with respect to those rivals was the Barrio
4 Azteca trying to keep them out of the yard?

5 A. Yes.

6 Q. And, basically, this Border Brother was coming into your
7 yard?

8 A. Yes.

9 Q. So what happened? How did the riot start?

10 A. They just told me I have to check in to the special
11 housing, he can't be on the population. And, actually, the
12 Paisas back him up saying, like, he's going to be -- he's going
13 to stay here. He's not going to stay here. You have to go
14 with him. And that's when they started punching and kicking
15 and --

16 Q. Okay. Let me ask you. So the Border Brother that was not
17 supposed to be in your yard went to the Paisas?

18 A. Yes.

19 Q. Who are the Paisas?

20 A. There's a union. Most of these guys are from Mexico.

21 Q. It's a gang?

22 A. It looks like.

23 Q. Okay. Were you at war? Or were you sort of neutral with
24 the Paisas?

25 A. At this time it was neutral. We wasn't at war. But it

1 became a war because the Border Brothers.

2 Q. So did the Paisas basically backup this Border Brother who
3 wanted to walk in the yard?

4 A. Yes.

5 Q. So what happens between the Paisas and Barrio Azteca?

6 A. We went to a big riot. It was like 15 of us against like
7 200, 300 of them.

8 Q. Who won that fight?

9 A. Actually, we -- it was like four or five of us they -- we
10 got beat up real bad. And I was one of them.

11 Q. What happened to you?

12 A. They stabbed me. They hit me with free weights, dumbbells.
13 And punched me, kick me all the way.

14 Q. Did you get sent to the hospital?

15 A. Yes.

16 Q. After the riot, did you stay at Pecos?

17 A. Yes.

18 Q. How long did you stay there?

19 A. Around seven to ten months.

20 Q. All right. Now, in serving out the rest of your sentence
21 there, um, where did you finally end your prison sentence?

22 Which -- which prison facility?

23 A. They send me to outside of Dallas, a private facility.

24 Q. And in between Pecos and Dallas, did you serve at a number
25 of facilities as well?

1 A. Yeah.

2 Q. Did you engage in same type of Barrio Azteca business at
3 those facilities?

4 A. Yes.

5 Q. At the end of your prison sentence when you're at Dallas, I
6 assume you're ultimately released, where do you go?

7 A. They deport me back to Mexico through Laredo, Texas to
8 Laredo, Texas to Laredo, Tamaulipas. And then I went back to
9 Ciudad Juarez, Mexico.

10 Q. Okay. And about this time that you're deported, what year
11 is that?

12 A. It was in back in 2002.

13 Q. When you went back and reported in Juarez, Mexico -- first
14 of all, why did you report?

15 A. Because it's one of the rules.

16 Q. All right. Who did you report to?

17 A. I went to see Cosas.

18 Q. Was Cosas a Barrio Azteca member?

19 A. Yes.

20 Q. How do you know who to go talk to?

21 A. Um, they let us know as soon as -- before we got out, we
22 got a place to go or information to a phone number.

23 Q. Pardon me. Who's they? Who lets you know?

24 A. The Barrio Azteca. The gang.

25 Q. Would this be the leader of the last prison facility you

1 are at?

2 A. Yes.

3 Q. So who was the BA -- or what was the BA like in Juarez when
4 you checked in in 2002?

5 A. It was like prison gang. It wasn't like it is right now.
6 Actually, it wasn't that kind of organized. Everybody was
7 splitting. At this time is when everybody -- Cosas start to
8 get the people straight up and start to get meetings and put
9 everybody together to work.

10 Q. So when you went and checked in with Cosas, did you start
11 working with the BA or did you find other work?

12 A. I found another work.

13 Q. With what?

14 A. I was working with the Juarez cartel.

15 Q. Let me ask you, you mentioned the Juarez cartel. Is La
16 Linea another name for the Juarez cartel?

17 A. Yes.

18 Q. How did you get involved in working with Juarez cartel?

19 A. Because one of my uncles -- two of my uncles, they're
20 relatives through the main guys from the Juarez cartel.

21 Q. The same uncle who you got locked up for transporting the
22 marijuana across the border?

23 A. Yes.

24 Q. Did you have credibility with those guys?

25 A. Yes. Yes.

1 Q. What kind of work were you doing for the Juarez cartel at
2 the time?

3 A. I start to transport drugs from Mexico, even in Ciudad
4 Juarez.

5 Q. All right. How much drugs were you transporting?

6 A. Around 50 keys of cocaine each week.

7 Q. How much were you paid for that?

8 A. 3- to \$4,500.

9 Q. Were you making -- can you tell us, were you also working
10 on the side, a side drug business?

11 A. Yeah. After I was -- I work for La Linea around ten months
12 a year. And then I got split. And I start to do my own thing.

13 Q. All right. Now, you mentioned that Tolon was your padrino.
14 Did you ever send him any money down in Juarez at this time?

15 A. Yes. It was back in 2003.

16 Q. And how much money did you send him?

17 A. Around 2- \$300.

18 Q. How did you get that money to him?

19 A. I give it to her daughter.

20 Q. To his daughter?

21 A. Yes.

22 Q. And what was the name of his daughter?

23 A. April.

24 Q. I would like to show you what's been marked as Government's
25 Exhibit 26.

1 MR. SKARET: This is not evidence, Your Honor.

2 THE COURT: All right. Just the witness.

3 Q. (By Mr. Skaret) This particular individual, Government's
4 Exhibit 26, do you recognize her?

5 A. Yes.

6 Q. What is her name?

7 A. April Cardoza.

8 Q. Is that the individual that you gave the money to send to
9 your padrino, Tolon?

10 A. Yes.

11 Q. Are you aware he she's been indicted in this case?

12 A. Yes.

13 Q. Now it's, approximately, 2003. Did you ever come back to
14 the United States?

15 A. Yes.

16 Q. And why?

17 A. I got married with my wife.

18 Q. Did you get married here in El Paso?

19 A. Yes, on the courthouse.

20 Q. When was the next time you got in trouble with the law?

21 A. 2006.

22 Q. What happened there?

23 A. They arrested me transporting around 200 pounds of
24 marijuana in Oklahoma -- in the State of Oklahoma.

25 Q. And what were you doing with this 200 pounds of marijuana?

1 A. I was on my way to Memphis, Tennessee.

2 Q. Memphis, Tennessee?

3 A. Yes.

4 Q. Were you convicted for that?

5 A. Yes.

6 Q. Did you plead guilty?

7 A. Yes.

8 Q. What was your sentence?

9 A. 36 months.

10 Q. Was that in federal court?

11 A. Yes.

12 Q. So now you're in federal system. What prisons did you
13 serve your time at for the drug charge?

14 A. I went to Fort Worth, Texas.

15 Q. Where else?

16 A. And Bastrop.

17 Q. Anywhere else?

18 A. Back to Pecos. And back deported back to Mexico.

19 Q. Did the BAs have a presence in the federal prisons that you
20 were transported to?

21 A. Yes.

22 Q. All right. Did you check in to the prisons like you were
23 supposed to?

24 A. Yes.

25 Q. Tell me, when you checked in, did the Barrio Azteca

1 leadership investigate you when you checked in?

2 A. Yes.

3 Q. Tell us about that investigation process.

4 A. They take your information, name. And if there's not a
5 rank over there in that prison, they send it to a rank to check
6 your background.

7 Q. And what part of rank -- or who with rank would they send
8 that to?

9 A. Depends on who you got communication with.

10 Q. Ultimately, did you pass your investigation?

11 A. Yes.

12 Q. Did you join up with the Barrio Azteca in those prisons?

13 A. Yes.

14 Q. Did you engage in BA assaults during your prison terms?

15 A. Yes.

16 Q. When you finished up your 36-month sentence on the drug
17 charge, what happened?

18 A. I get deported back to Mexico in 2008.

19 Q. Was Juarez a different place?

20 A. Yes.

21 Q. How was it different?

22 A. The gang -- it was real, real organized. And they joined
23 Juarez drug cartel, like they're enforcers.

24 Q. And why did the Barrio Azteca and Juarez drug cartel join
25 forces at that time?

1 A. At the beginning they started just with drugs. After that,
2 they -- they became like more connected to the cartel. And the
3 cartel start using the gang to do their dirty work.

4 Q. Who was the gang doing their dirty work against?

5 A. Against another rival gangs and the rival Sinaloa cartel.

6 Q. So the Juarez cartel was basically at war?

7 A. Yes.

8 Q. With whom or against whom?

9 A. Against the Sinaloa cartel.

10 Q. Now, you mentioned it was a Barrio Azteca rule to check in.
11 Did you check in in Juarez, Mexico?

12 A. Yes.

13 Q. Who did you check in with?

14 A. Fresa.

15 Q. The same Fresa that sponsored you in back in Pecos?

16 A. Yes.

17 Q. Tell us about how you checked in.

18 A. I looked for him because I'm -- one of the sisters used to
19 have a business where we used to hang up before I come to live
20 in El Paso and went to prison. And I meet him. And he take me
21 to my rehab to check my background again.

22 Q. Who was at rehab to check your background?

23 A. It was Freddie and Cuate.

24 Q. Cuate. Did you ever meet an individual named Chino Valles?

25 A. I spoke on the phone with him.

1 Q. All right. And that was at that time at the rehab?

2 A. Yes.

3 Q. Why did you speak on the phone with Chino Valles?

4 A. At that time it was a real, real heat on Juarez because the
5 war. And because the Government, they're looking for members
6 of the gang. And there was like more hiding.

7 Q. And Chino Valles, was he a Barrio Azteca member?

8 A. Yes.

9 Q. Was he a leader?

10 A. He used to be.

11 Q. Um, what did you talk about with him on the telephone?

12 A. He asked me my name and where I coming from and -- how if I
13 was good and clear. And I told him yes.

14 Q. As part of your cooperation in the United States, have you
15 previously identified Fresa and Chino Valles?

16 A. Yes.

17 Q. I would like to show you what's been marked as Government's
18 Exhibit 26.

19 MR. SKARET: This is not in evidence, Your Honor.

20 THE COURT: All right.

21 Q. (By Mr. Skaret) Do you recognize at that individual there?

22 A. Yes.

23 Q. Who is that?

24 A. Fresa.

25 Q. Do you recognize -- he's not on here. So, basically, Chino

1 Valles conducted your investigation?

2 A. Yes.

3 Q. Did he get back to you on the results of the investigation?

4 A. It was quick on the same phone call I got with him.

5 Q. Okay. How was he able to basically complete your
6 background investigation so quickly?

7 A. Because Fresa, he know me back in the day. He was the one
8 who sponsored me to become a member.

9 Q. And Fresa vouched for you?

10 A. Yes.

11 Q. All right. Did Fresa give you an update of what was going
12 on in Juarez?

13 A. Yes.

14 Q. What did he say?

15 A. He say we was in a war and we had to take care about what
16 we do, where we go. If you got any tattoos, you have to cover
17 up because the federal government -- it was behind us and the
18 rival gangs.

19 Q. And what did he say about the murders that were occurring
20 in Juarez?

21 A. Um, he told me like right now there were working for La
22 Linea direct -- work for La Linea. And they told me, like the
23 enforcers. And at this time it was JL in charge from La Linea.
24 He was the main guy who orders the hits and tell the Barrio
25 Azteca to do it.

1 Q. And why is Juarez so important to these cartels that are
2 fighting?

3 A. Because it's one of the biggest places to transport drugs
4 into the United States.

5 Q. Now, you just mentioned an individual named JL?

6 A. Yes.

7 Q. And you mentioned he was involved with the Juarez drug
8 cartel?

9 A. Yes.

10 Q. What was his position?

11 A. He was the leader.

12 Q. Did there ever come a time when you went and talked to JL?

13 A. Yes.

14 Q. Tell us about that.

15 A. I meet him before I went to prison the last -- second time.
16 And I was doing some work for him, moving around keys of
17 cocaine. And when I got out the second time, um, one of my
18 have cousins used to have a bar over there. It was a place
19 where they used to hang up. My cousin told me, like, JL came
20 by before I got out and asked for me. My cousin -- at the time
21 I went with my cousins to get a couple of drinks. He told me
22 if I can go and see JL.

23 Q. Did you ultimately meet up with him?

24 A. Yes.

25 Q. And why did you go see him?

1 A. Just to give my respects. And just to find out what he
2 want from me.

3 Q. Were you looking for a job?

4 A. Not really.

5 Q. Why not?

6 A. Because I'm done. And I was doing too many time in prison.
7 And, actually, I was married. My wife wait for me. And she
8 told me if I came back again to the same thing, she's going to
9 left me.

10 Q. Where was your wife at this time?

11 A. In El Paso.

12 Q. Did you ultimately go see JL?

13 A. Yes.

14 Q. Where was he?

15 A. It was kind of outside Juarez city limits.

16 Q. All right. Um, what happened when you -- did you go to the
17 place?

18 A. Yes.

19 Q. What happened when you got there?

20 A. I got there. And as soon as I came in, I see three of the
21 gang members from the Barrio Azteca. One of them, it was in
22 the car. And two of them was inside of the house talking with
23 JL.

24 Q. Who was in the car?

25 A. Camello.

1 Q. Camello. Do you know his full name?

2 A. Jesus Chavez.

3 Q. And with respect to this individual, Jesus Chavez, he's
4 also known as Camello, you say?

5 A. Yes.

6 Q. All right. Do you know what his position was at that time?

7 A. Fresa told me he became leader. He was in charge of one of
8 the hit squads.

9 Q. Now Camello is in the car. Who's outside of the car?

10 A. Nobody was outside the car. The other two members -- it
11 was inside of the house.

12 Q. Inside the house?

13 A. Yes.

14 Q. Did you go inside his house?

15 A. Yes.

16 Q. And did you see who were those two other guys?

17 A. Yes.

18 Q. Who were they?

19 A. One of them was Tablas. And the other one was Rafa Duarte.

20 Q. Who's Tablas?

21 A. Eduardo Ravelo.

22 Q. What's his position in Juarez?

23 A. It's one of the captains for the gang.

24 Q. For them who? The Barrio Azteca?

25 A. Yes.

1 Q. All right. I'm showing what's been marked as Government's
2 Exhibit 26. Do you recognize that individual?

3 A. Yes.

4 Q. Who is it?

5 A. Tablas.

6 Q. You mentioned the second individual that was inside was
7 Rafa?

8 A. Rafa Duarte. Rafael Duarte.

9 Q. And what was his role in the Barrio Azteca organization?

10 A. He is a lieutenant from the gang.

11 Q. Why was Tablas and Rafa Duarte at the home of JL that day?

12 A. He was talking about some business.

13 Q. All right. What kind business?

14 A. Actually, when I get in, Rafa -- I saw JL. And he told me,
15 like, he want to introduce me to these guys. And he didn't
16 know I was a Barrio Azteca member. So he told me, like, I want
17 you to meet these guys. And they're working with me. And it
18 was a laugh over there, because the two gang members, they
19 already know me because I was a member. And JL became like
20 strange because he didn't know about me. So --

21 Q. He's trying to introduce you to people that already know
22 you?

23 A. Yes.

24 Q. All right. What, if anything, did JL tell Tablas about
25 you?

1 A. Um, actually, they start to talk about business. And JL
2 told me to get to another room. As soon as they finish, I came
3 back. And JL told to Tablas, like, I want you to take care
4 about this guy, about me. And I don't want you to put him on a
5 hit -- he just barely got out. I don't want you to put him on
6 the hit squads and all that.

7 Q. All right. Now, you mentioned the hit squads. What is a
8 hit squad?

9 A. Hit squad, it's about -- it's about six -- six, seven
10 members. It's these people, they're always in quarantine.
11 These people -- it's people who got deported or they're from
12 Juarez. They are Barrio Azteca members. And they put them to
13 work.

14 Q. Okay. So what kind of work does a hit squad do?

15 A. Killing.

16 Q. And is this -- is that the sole goal in life, basically?

17 A. Yes.

18 Q. All right. So JL tells Tablas don't put you on a hit team.

19 A. Yes.

20 Q. All right. Does Tablas end up putting you on a hit team?

21 A. No.

22 Q. All right. What does he do?

23 A. He talked to me. And he was worried. He asked me where I
24 know JL. I told him it was back in the day and I was working
25 with him. And he was kind of worried, kind of jealous

1 because -- I don't know.

2 Q. Because you were friends with JL?

3 A. Yes.

4 Q. Okay. Now, if JL hadn't put in that word for you, do you
5 know what Tablas had in mind for you?

6 A. Yes.

7 Q. And what had he had in mind?

8 A. Put me on a hit squad right away.

9 Q. In Juarez did you ever come across another individual by
10 the name of Arturo Castrellon Gallegos, otherwise known as
11 Benny or Farmero?

12 A. Yes.

13 Q. As part of your cooperation in this case you've identified
14 that individual, correct?

15 A. Yes.

16 Q. I would like to show you what's been marked as Government's
17 Exhibit 26. Do you recognize that individual?

18 A. Yes.

19 Q. Who is it?

20 A. Farmero.

21 Q. Is he also known as Benny, real name Arturo Castrellon
22 Gallegos?

23 A. Yes.

24 Q. What are some of the other leaders of the Barrio Azteca
25 that you met down there after meeting with JL at his house?

1 A. Actually, I got out. And two days later Fresa called me
2 and they want -- they want to talk to me. And they take me to
3 another house. And I meet Tablas over there and Rafa. And he
4 want to talk to me. And he pulled me to the side and asked me
5 about JL and all that. And, actually, he tried to get JL out
6 of the game and tried to get his spot.

7 Q. Tried to get his spot?

8 A. Yes.

9 Q. So, basically, Tablas is trying to take over?

10 A. Yes.

11 Q. Did he want your help?

12 A. Yes.

13 Q. Did you give it to him?

14 A. No.

15 Q. Why not?

16 A. I told him, like, he has to be real connected with the main
17 leader from the Juarez drug cartel. Because if he don't, the
18 leader is going to come and get him.

19 Q. Um, now when you were down there, meeting up with some of
20 these Barrio Azteca leaders in Juarez, in addition to nicknames
21 did they go by numbers?

22 A. Yes.

23 Q. Why do they have numbers assigned to them?

24 A. Because all the communication they have on the frequency
25 radios, they don't want to pick up names or nicknames.

1 Q. So they use numbers on the radios?

2 A. Yes, sir.

3 Q. Did you listen to the radios when you were down there?

4 A. Yes.

5 Q. What kind of business are they conducting on the radio?

6 A. All kind of business. Killings, extortion, drug business,
7 money laundering.

8 Q. Let me go back for a second. When you met with Tablas and
9 he wanted to use you with respect to JL, what did Tablas want
10 your help in doing to JL?

11 A. Kill him.

12 Q. Okay. All right. That's when you say no you're not going
13 to do that?

14 A. Yes.

15 Q. Now with respect to these -- the Barrio Aztecas' use of
16 radios down there, they use the number on the radio. Why is
17 that?

18 A. Because they don't wanna get the federal police, get a
19 track or for names or nicknames.

20 Q. When you were with Fresa, did he have a radio?

21 A. Yes.

22 Q. Was he a leader in the Barrio Azteca then?

23 A. He got -- he was on the -- the leader of one of the hit
24 squads.

25 Q. All right. And he had a radio?

1 A. Yes.

2 Q. And did you hear hits going down on the radio?

3 A. Yes.

4 Q. Did the Barrio Azteca leaders in Juarez all have radios?

5 A. Yes.

6 Q. What is Chino Valles a leader?

7 A. Yes.

8 Q. Did you ever make it back to your wife in El Paso?

9 A. Yes.

10 Q. When was that?

11 A. Just spent like 20 days, 25 days in Juarez. And I came
12 back to El Paso.

13 Q. All right. Did the police ever come to you because you
14 were here illegally at that point?

15 A. Yes.

16 Q. When was that?

17 A. Back in May 26, 2010.

18 Q. Before you got picked up, did you report to the Barrio
19 Azteca here in El Paso?

20 A. Yes.

21 Q. And who did you report to?

22 A. It was Flaco.

23 Q. All right. Was he a leader in the organization?

24 A. Yes. He was in charge of one of the areas from El Paso.

25 Q. All right. Now, with respect to the police catching you

1 because you were here illegally, were you charged and convicted
2 on a charge relating to that?

3 A. Yes.

4 Q. Is that the illegal re-entry charge we talked about
5 earlier?

6 A. Yes.

7 Q. Where have you spent your prison time up to date on that
8 charge?

9 A. I went to Coleman, Florida. And then they transferred me
10 to Oakdale, Louisiana.

11 Q. Before you came out here for trial, where were you?

12 A. Oakdale, Louisiana.

13 Q. And when you left Oakdale, who was in charge for the BAs
14 there?

15 A. I was.

16 Q. Mr. Carrillo, I would like to ask you, have you ever heard
17 of a BA member by the name of Spooky?

18 A. Yes.

19 Q. How have you heard of this individual?

20 A. We got some communication with another lieutenant. And he
21 let us know about -- he's the new captain on the Barrio Azteca
22 gang.

23 Q. Did you know anything about his background?

24 A. Over there in Oakdale, there was a member who used to --
25 did some time with Spooky.

1 Q. All right. What did that particular member tell you about
2 Spooky?

3 A. He said he was in charge in some prison. I don't know the
4 name of the prison. And, um, he got shipped out to Otisville,
5 New York.

6 Q. Otisville, New York?

7 A. Yes.

8 Q. All right. Go ahead.

9 A. And he did some kind of mess. And he got to clean it up.
10 And another capo from the gang, Shotgun, Carlos Pereya, send
11 him a order to clean up his mess.

12 MR. FOSTER: Judge, I'm going to object and ask for a
13 hearing on this matter.

14 THE COURT: Would the attorneys approach?

15 (Bench conference. Out of hearing of Jury.)

16 THE COURT: What's your objection?

17 MR. FOSTER: They're about to introduce prior
18 adjudicated conduct for which there has been a trial, pled
19 guilty. And he's been -- and my client -- has been sentenced
20 on that case. This conduct falls within the -- just about a
21 month within the indictment. If they're going to use
22 adjudicated conduct within the indictment to prove up his
23 involvement in the BA, then that could constitute a lesser
24 included offense or might be a prior jeopardy claim.

25 THE COURT: Is it a pending case?

1 MR. FOSTER: It's already been adjudicated. He's pled
2 guilty on it and been sentenced and did his time. They're
3 about to introduce things from which there's already a judgment
4 pending. My client has not testified. And so, um, using a
5 prior adjudicated conduct against him at this point actually
6 constitutes a portion of the offense that -- that's charged.
7 And it could be a former jeopardy.

8 THE COURT: All right. What's the Government's
9 response?

10 MR. SKARET: First of all, Your Honor, the defense has
11 had notice of this. It's been in this 302 of this particular
12 individual, first. Second, under RICO, this is typical and
13 customary RICO type of evidence. What did the guy do in jail?
14 How did he participate in BA activities? I believe the
15 witness's testimony up to the point of the objection was that
16 this particular person that he knew as Spooky, he heard from
17 his BA -- BA buddies at Oakdale was -- this particular man
18 named Spooky was locked up in Otisville. And that I believe
19 the testimony is going to be that as part of that -- well, I
20 should back up. The testimony was that while in Otisville, he
21 got himself in a mess, which I'm going to have him explain what
22 a mess is.

23 In order to clean up that mess an individual named
24 Shotgun told him he had to do a job. This individual, in
25 talking with others in the conspiracy, all believed that what

1 he did to clean up that job was stabbed a rival inmate. We're
2 not getting into anything about whether he was charged and
3 convicted of that offense. Um, only that that was the word.
4 And the reason why that's important, that particular event gave
5 the defendant instant credibility in the organization. And he
6 was subsequently shipped off to be housed with Shotgun. And,
7 you know, of course, the Court knows the evidence after that.

8 So with respect to our RICO conspiracy, it's within
9 the timing of the RICO, but it's a co-conspirator statement
10 certainly within the time of the conspiracy.

11 MR. FOSTER: What's a co-conspirator statement -- I
12 know what a co-conspirator statement is. What I'm saying is
13 this man is not a co-conspirator.

14 MR. SKARET: Yes. He is unnamed.

15 MR. FOSTER: He's not in the indictment or the other
16 indictment.

17 MR. SKARET: The indictment alleges the RICO
18 conspiracy was with these individuals and others named and
19 unnamed. This individual testified he's a member of the Barrio
20 Azteca, has been a member. He was a member of the Barrio
21 Azteca before the charged conspiracy, all during, and, in fact,
22 all the way up until today. So he's certainly a
23 co-conspirator. And the statement that he's referencing, um,
24 is from a Barrio Azteca member, who's at Oakdale and speaking
25 about this charged conspiracy and talking about Spooky and why

1 he's got credibility.

2 THE COURT: Okay. What are we trying to prove with
3 all of this? I'm at a loss to understand what the Government
4 is attempting to prove that this incident happened at Oakdale.

5 MR. SKARET: Well, the incident didn't happen at
6 Oakdale. It was at Otisville.

7 THE COURT: Sorry.

8 MR. SKARET: We are attempting to prove that members
9 who were in jail, not even at Otisville, members all over the
10 country knew about Spooky. The reason they knew was that he
11 proved himself just like every other witness that has taken the
12 stand. They've proven themselves. And the way he did is he
13 stabbed an individual at Otisville, New York while
14 incarcerated. It was a member of a rival gang. And the reason
15 he did it was because he was in bad standing with Shotgun.

16 THE COURT: This is at Shotgun's direction?

17 MR. SKARET: Yes.

18 THE COURT: What year is it?

19 MR. SKARET: 2003, I believe.

20 MR. FOSTER: February 21, 2003 is the allegation --
21 that's the --

22 MR. SKARET: Of course, he gets charged for that in
23 the Southern District of New York. That's why, ultimately, he
24 gets, basically, another sentence stacked onto his sentence
25 that he was serving time for. We're not getting into the fact

1 he was charged or convicted. And, basically, it's just the
2 beginning of that part of the story.

3 MR. COOLEY: May I address this?

4 THE COURT: Sure.

5 MR. COOLEY: RICO would permit to us get into that
6 conviction if we decided to do that. RICO encompasses other
7 offenses of conviction. We're not even going that far.
8 Simply, the information is provided by other co-conspirators.
9 Again, that raised his status to one of the top five people in
10 the whole BA gang. I mean, that explains why. That's why it's
11 pertinent.

12 MR. FOSTER: I can see their point, Judge. I'm
13 looking at this saying this is an event which is a part of this
14 case, the fact that he has been convicted on it brings up a
15 former jeopardy claim.

16 THE COURT: I don't know how it's part of this case.
17 The conspiracy that we're talking about here has to do -- I
18 mean, everything the Barrio Azteca does is in furtherance of
19 the BA. The RICO conspiracy has been about the movement and
20 the collection of quotas here in El Paso area and not anything
21 to do with, you know, some stabbing in Otisville. I mean,
22 everything that Barrio Azteca do since they formed is in
23 furtherance of the BA. Doesn't make it part of this case.

24 MR. SKARET: Your Honor, I believe the witness already
25 is -- for the most part in his life when he joined, he was in

1 jail. And, you know, I think we've heard a lot of evidence in
2 this case that the enterprise conducts its affairs in jail.

3 He's saying that, you know, while he was in jail, he's
4 ordered to beat up members of the rival gangs. It's no
5 different than what Spooky did back in 2003. I believe it was
6 two weeks or so where I had a conversation with Mr. Foster
7 about our ability to introduce the certified conviction on this
8 case. At that point he raised the same concern and said, Well,
9 I don't want the jury thinking they need to punish my guy for a
10 stabbing that he's already been convicted for. He mentioned he
11 might put this in his side of the case.

12 MR. FOSTER: That's true, Judge.

13 MR. SKARET: That might very well be in. But as far
14 as we're concerned, we don't need to introduce the evidence.
15 This is the evidence that we need to get in. We don't need a
16 certified conviction, again, what we're trying to get to the
17 jury. But if he's concerned about the jury wanting to punish
18 his guy a second time for something that he's already done, he
19 believes is part of the conspiracy, we would have no objection
20 to him introducing this in his part of the case.

21 THE COURT: Again, I don't want to confuse the jury.
22 There's been plenty of testimony of illegal activities. The
23 Court's going to overrule the objection. I do think it's
24 admissible. But if someone -- whether the government or you
25 attempt to introduce his prior conviction, then I'm going to

1 need some good reason to introduce it. Because it's not being
2 introduced for any other purpose than to show standing in the
3 BA, so -- not because he's trying to be punished for it. So
4 all right. I'll -- I'll overrule.

5 (End of bench conference. Back in open court.)

6 THE COURT: The Court will overrule the objection.
7 You may proceed.

8 Q. (By Mr. Skaret) So you had just told the Members of the
9 Jury that you heard from a BA member in Oakdale, Louisiana that
10 the defendant was in Otisville, New York, got himself into a
11 mess. In order to get himself out of the mess, he obeyed an
12 order from Shotgun and stabbed an inmate. Is that correct?

13 A. Yes.

14 Q. What does it mean to get yourself into a mess?

15 A. It's different. Kind of a screwed up. Probably, he didn't
16 follow an order or didn't do something he supposed to do.

17 Q. As, um, usual practice in the Barrio Azteca if you get
18 yourself into a mess, are you given a job?

19 A. Yes.

20 Q. Is it usually -- um, what types of jobs are you given?

21 A. It's depending of the rank what he want to give you. He
22 can give you probation, put to you work or put to you workout.
23 Or even they could give you a job where you need to stab
24 somebody.

25 Q. Is it safe to say this is how the defendant proved himself

1 with Shotgun?

2 A. Yes.

3 Q. Is this the last you heard of an individual in the Barrio
4 Azteca named Spooky?

5 A. After he did his job, he got some time, federal time, for
6 doing that. He got transported to Pollock, Pollock USP where
7 he meet with Shotgun.

8 Q. How do you know that? How do you know he was transferred
9 to Pollock?

10 A. Because the same member he was with me, he told me about
11 his -- his story.

12 Q. And did you ever see a picture of this individual named
13 Spooky?

14 A. Yes.

15 Q. And what kind of a picture was it?

16 A. It was a prison group picture.

17 Q. Group prison picture?

18 A. Yes.

19 Q. In that particular picture what was this individual named
20 Spooky wearing?

21 A. Muscle shirt.

22 Q. Muscle shirt?

23 A. Yes.

24 Q. Can you describe from the picture what Spooky looked like?

25 A. Short guy, white, with long sleeved tattoos.

1 Q. And is it common to see pictures of other Barrio Azteca
2 members while you were in prison?

3 A. Yes.

4 Q. And is it common to send out pictures of Barrio Azteca
5 members in your facility?

6 A. Yes.

7 Q. All right. Have you ever seen this individual named Spooky
8 in person?

9 A. No.

10 Q. If you saw him again, would you recognize him?

11 A. Yes.

12 Q. Do you recognize him today in court?

13 A. Yes.

14 Q. If you would, please point to the individual that you
15 recognize from that photo and identify him by what he's wearing
16 and sitting.

17 A. It's right there, that table. Wearing a black suit with a
18 blue shirt.

19 MR. SKARET: May the record reflect a positive
20 identification of the defendant?

21 THE COURT: It will so reflect.

22 Q. (By Mr. Skaret) Did you receive any letters regarding this
23 particular individual named Spooky while you were at Oakdale?

24 A. Not for him.

25 Q. Not from him?

1 A. No.

2 Q. Did you receive letters about him?

3 A. Yes.

4 Q. What were those about?

5 A. They just let us know who he was, the new captain on the
6 gang.

7 Q. Was it your job to receive these types of letters?

8 A. I wasn't in charge. It was another gang member.

9 Q. So when was this, approximately?

10 A. Approximately, in January this year.

11 Q. And, um, that he's when you received it at Oakdale?

12 A. Yes.

13 Q. What did the letter say?

14 A. Um, it says about Spooky. And say about Shotgun, he was
15 underground on the supermax. And it said another gang member
16 Lugas was in charge of the federal system. And, um, he said
17 also, like, as soon as Shotgun get out from the shoe on -- on
18 Florence, he's going to do a clean-up on the gang.

19 Q. Does it say thinking about the guys who are on the muleta
20 list?

21 A. Excuse me?

22 Q. Does it say anything about the guys who are on the muleta
23 list?

24 A. Not really.

25 MR. SKARET: Your Honor, at this time the Government

1 would offer Government's Exhibit 26 into evidence. This is the
2 organizational chart. I believe everyone has been identified
3 by name and by picture, by rank. And the government would like
4 to produce this for demonstrative purposes.

5 THE COURT: Any objections?

6 MR. FOSTER: No, Judge. I've been counting. They've
7 got them all identified.

8 THE COURT: So Government's Exhibit 26 will be
9 admitted.

10 MR. SKARET: May I publish, Your Honor?

11 THE COURT: You may.

12 MR. SKARET: Pass the witness.

13 THE COURT: Mr. Foster?

14 CROSS-EXAMINATION

15 BY MR. FOSTER:

16 Q. Mr. Carrillo, you were charged and sentenced to 37 months
17 back in 2000. Is that correct?

18 A. Yes.

19 Q. In federal court. Possession of marijuana with intent to
20 distribute?

21 A. Yes.

22 Q. That was out of New Mexico?

23 A. Yes.

24 Q. Um, and shortly thereafter you were also -- or probably
25 wrapped into the same case, you had an importation of marijuana

1 of 100 kilos where you got 36 months?

2 A. Yes.

3 Q. That was the case out of El Paso, correct?

4 A. No, in Oklahoma.

5 Q. No. Let's see. Oklahoma. That was in 2006?

6 A. Yes.

7 Q. I'm talking 2001. Did you not have a case in El Paso and a
8 case in New Mexico for drug smuggling?

9 A. Yes.

10 Q. Okay. In 2006 you had a possession with intent to
11 distribute marijuana out of Oklahoma, correct?

12 A. Yes.

13 Q. And you did a cooperative agreement in that case as well,
14 didn't you?

15 A. Yes.

16 Q. Then here in 2010, it looks like May 25th, you were in the
17 county jail for possession of marijuana less than two ounces?

18 A. Yes.

19 Q. And that's where you were picked up by immigration
20 officials and consequently prosecuted for illegal re-entry. Is
21 that correct?

22 A. Yes.

23 Q. You received a 66-month sentence or 60?

24 A. 60.

25 Q. In this case you're looking for a reduction in sentence.

1 Is that correct?

2 A. Yes.

3 Q. When did you first start talking to the Government about
4 this case?

5 A. It was August of 2010.

6 Q. August 2010. Even though you had been talking to the
7 government you went back to a prison where you were put in
8 charge by the Barrio Azteca?

9 A. Yes.

10 Q. They didn't know you had talked to the government?

11 A. Yes.

12 Q. They did or did not?

13 A. Did not.

14 Q. Okay. In fact, when you were first started talking to the
15 government, you denied any gang affiliation, didn't you?

16 A. No.

17 Q. Were you arrested on this?

18 A. They already know it's on my record.

19 Q. You've also been a user of drugs, as well, cocaine,
20 marijuana?

21 A. Yes.

22 Q. You used right up until the time you were arrested. Is
23 that correct?

24 A. Yes.

25 Q. In fact, that's why you were over there in jail was because

1 of the marijuana.

2 A. Yes.

3 Q. And earlier in your life you also used mushrooms and LSD?

4 A. Yes.

5 Q. What are mushrooms?

6 A. It's a -- it's -- grows underwater. But it's some kind of
7 a synthetic drug.

8 Q. Okay. Are you looking for something like an S visa or
9 asylum this your case?

10 A. Yes.

11 Q. What happens if the government and immigration officials do
12 deport you or restate your deportation order and you go back to
13 Juarez?

14 A. I'm going to get killed.

15 Q. You worked for La Linea at one time.

16 A. Yes.

17 Q. What did you do for La Linea?

18 A. Transported drugs.

19 Q. It's my understanding La Linea is the enforcement side of
20 the Juarez cartel?

21 A. It's a name for the Juarez cartel.

22 Q. So it's used interchangeably?

23 A. Yes, it's the same thing.

24 Q. To prove yourself you beat up how many people?

25 A. Five.

1 Q. Broken ribs?

2 A. Yes.

3 Q. Knocked out their teeth?

4 A. Yes.

5 Q. Serious injuries.

6 A. Yes.

7 Q. You said after you got out, you went back to Juarez and
8 reported to Cosas?

9 A. Yes.

10 Q. And you were -- I'm sorry. How much cocaine you said you
11 transported each week?

12 A. Around 50 kilograms.

13 Q. About 50 kilos? How much were you being paid?

14 A. 3,000 to \$4500 a week.

15 Q. Did you suspect that you were being severely underpaid for
16 that?

17 A. Yes.

18 Q. Why did you do it?

19 A. Because I don't got no job and no money at the time.

20 Q. Now, let's see. When you were in Oakdale, Louisiana, you
21 said you were in charge. Were you in regular population or
22 lock-down?

23 A. Regular population.

24 Q. Now, you said Tablas came to you and asked you for help in
25 taking over in Juarez?

1 A. For the leader.

2 Q. What did you tell him?

3 A. I told him, like, he's not being really connected to the
4 main guy through the leader from the cartel, he's going to send
5 people to kill him.

6 Q. No. I said what did you tell him? Did you tell him -- you
7 told him no?

8 A. Yes.

9 Q. Is that correct?

10 A. Yes.

11 Q. And is no a word you use to the leadership?

12 A. No, not really. I just -- I just explained to him what was
13 going to be the risk if he do that.

14 Q. You claimed to recognize Mr. Renteria from a photograph.
15 When was the first time you saw a photograph of Mr. Renteria?

16 A. At the beginning of this year.

17 Q. Who showed you that photograph?

18 A. Another member.

19 Q. I'm sorry?

20 A. Another member.

21 Q. Another member?

22 A. Yes, sir.

23 Q. So it was done in prison?

24 A. Yes.

25 Q. Was it done by the FBI?

1 A. It was a prison photograph.

2 Q. You have no problem with your recollection at this point of
3 this one person?

4 A. Yes.

5 Q. Was that a group photograph you looked at?

6 A. Yes.

7 Q. Do you remember everybody on that photograph?

8 A. Most of them.

9 Q. How many were on that photograph?

10 A. Around eight, ten people.

11 Q. Do you know when the photograph was taken?

12 A. Probably Otisville, New York.

13 Q. No. When?

14 A. I don't know.

15 Q. You don't know when it is?

16 A. No.

17 Q. You weren't there for the photograph to be taken, right?

18 A. Yes.

19 Q. Have you seen that photograph again?

20 A. I just saw him, like, a couple times. That's it.

21 Q. Have you seen it a couple of times since you first saw it?

22 A. Yes.

23 Q. From the same people, same location?

24 A. Yes.

25 Q. Not since you've been talking with the FBI or the

1 government?

2 A. No.

3 Q. But you've never before met Mr. Renteria?

4 A. No.

5 Q. When you testified about things that you heard about what
6 happened in Otisville -- I'm sorry, yeah, Otisville, those were
7 things you heard from somebody?

8 A. Yes.

9 Q. You have no person knowledge of that?

10 A. Not really. But we not allowed say --

11 Q. Sir -- I'm sorry. Do you have any personal knowledge of
12 that? Yes or no, please.

13 A. They just told me about it.

14 Q. How many people did it go through before it got to you? Do
15 you have any clue?

16 A. No.

17 Q. How far are you on the BA gossip vine?

18 A. I don't understand the question.

19 Q. Are you one of the top people who gets information right
20 away about stuff like that -- well, back in 2003, were you one
21 of the top people who gets information about that right away or
22 kind of on the tail end of that line?

23 A. Can you say that again?

24 Q. Back when this was supposed to have happened in 2003, were
25 you one of the first people to receive this type of

1 information? Or were you at the end of the line of receiving
2 information?

3 A. What information you talking about?

4 Q. The information you're testified to, sir.

5 A. I don't understand 2003 and this information.

6 MR. SKARET: I believe the question misstates the
7 evidence. The information came in around the beginning of this
8 year was the testimony on direct.

9 THE COURT: All right.

10 MR. SKARET: Not 2003.

11 THE COURT: The jury will recall the testimony.

12 MR. FOSTER: I will go ahead and pass the witness.

13 THE COURT: All right. Mr. Skaret?

14 REDIRECT EXAMINATION

15 BY MR. SKARET:

16 Q. Mr. Carrillo, how important is effective communication
17 within the Barrio Azteca?

18 A. It's -- when you're in prison, it's the only way to get
19 communication between the other prisoners.

20 Q. What happens if you receive unreliable information?

21 A. You're up to get disciplinary action.

22 Q. And the people who provide unreliable information, what
23 happens to them?

24 A. Depends. They got beat up. They can be stabbed or they
25 can become ex-members.

1 Q. And if you spread unreliable information, what happens to
2 you?

3 A. Reliable. It's always we talk.

4 Q. And if you spread unreliable information, what happens to
5 you?

6 A. They run a card on you. And they put you up to
7 disciplinary action.

8 MR. SKARET: That's all, Your Honor.

9 THE COURT: All right. Mr. Foster, anything further?

10 MR. FOSTER: Give me just a second, Judge.

11 THE COURT: All right.

12 MR. FOSTER: We're not going to have any further
13 questions of this witness.

14 THE COURT: Is this witness excused?

15 MR. SKARET: Yes, Your Honor.

16 MR. FOSTER: We have no objection, Judge.

17 THE COURT: You may step down. You're excused as a
18 witness.

19 Government may call their next witness.

20 MR. COOLEY: Thomas Roberts.

21 THE COURT: We are going to bring in this witness.

22 However, my understanding, it's gonna take a couple of minutes.
23 So let's go ahead and take a short break in case any of you
24 need to use the restroom or whatever.

25 Remember, you remain under the instructions the Court

1 has previously given you. And we'll see you in about five
2 minutes.

3 (Jury leaves courtroom.)

4 THE COURT: You may be seated. We're in recess.

5 (Court is back in session.)

6 THE COURT: You may be seated. You can go get the
7 jury. While he's getting the jury, could the attorneys
8 approach just real quick.

9 (Off the record discussion at bench.)

10 (Jury enters courtroom.)

11 THE COURT: You may be seated, Ladies and Gentlemen.

12 Government may call their next witness. I believe
13 this witness needs to be sworn in.

14 MR. COOLEY: I don't believe he's been sworn in yet,
15 Your Honor.

16 THOMAS ROBERTS, SWORN

17 DIRECT EXAMINATION

18 BY MR. COOLEY:

19 Q. Sir, please state your name.

20 A. Thomas Martin Roberts.

21 Q. Mr. Roberts, you've pled guilty in this case. Have you
22 not?

23 A. Yes, I have.

24 Q. And you pled guilty to three counts, four counts?

25 A. It was actually four counts.

1 Q. What were those counts?

2 A. Racketeering, money laundering, um, drug sales. And I
3 don't remember the fourth one, sir.

4 Q. Importation --

5 A. Yes, sir.

6 Q. -- of drugs?

7 A. Yes, sir.

8 Q. Now, in your plea agreement it had that 20-year cap. Is
9 that right?

10 A. Yes, sir.

11 Q. Meaning if the Court, um, accepts your plea agreement, the
12 most that you can be sentenced off of that plea agreement is 20
13 careers. Is that right?

14 A. Yes, sir.

15 Q. And your guideline's actually had 30 years to life.

16 A. Yes, sir.

17 Q. As part of your plea agreement you agreed to cooperate with
18 the Government. Is that right?

19 A. Yes, I did.

20 Q. In exchange for that the Government has agreed to recommend
21 you as a candidate for the witness SEC program. Is that right?

22 A. Yes, sir.

23 Q. In addition, the Government agreed that if you continued to
24 cooperate, that we would file a departure of the 20-year
25 sentence with the Court. Is that right?

1 A. Yes, sir.

2 Q. And what judge would make a determination of your sentence
3 ultimately?

4 A. Your Honor, sir.

5 Q. Judge Cardone?

6 A. Yes, sir.

7 Q. Now in the past you've been addicted to drugs. Is that
8 right?

9 A. Yes, sir.

10 Q. What type of drugs?

11 A. Cocaine, mainly.

12 Q. I'm sorry?

13 A. Cocaine.

14 Q. How long have you been addicted to the cocaine?

15 A. Many, many years.

16 Q. Did you ever become clean?

17 A. In 2002 when I was incarcerated.

18 Q. 2002?

19 A. Yes, sir.

20 Q. You became incarcerated in 2002. Um, did you get clean
21 right away or did it take a period of time from that point?

22 A. In 2002 is when I was incarcerated. I was not let out. So
23 from that point on.

24 Q. So when were you released from that incarceration?

25 A. 2007.

1 Q. So when you came out, you basically stopped using cocaine?

2 A. Yes, sir.

3 Q. Now, your criminal history includes theft.

4 A. Yes, sir.

5 Q. Drugs.

6 A. Yes, sir.

7 Q. Multiple burglaries.

8 A. Yes, sir.

9 Q. During the course of your incarceration you've been
10 disciplined. Is that right?

11 A. Yes, sir.

12 Q. For what type of violations?

13 A. Um, when I was in a prerelease unit, I had for what they
14 call the meal ticket. I also had one fight. And also for
15 paraphernalia of -- they were little stickers from a Cracker
16 Jack package that I brought from visitation.

17 Q. What about holding on to prescription drugs?

18 A. Yes, sir, also.

19 Q. Can you explain what happened on that?

20 A. On that incident, um, they were giving me medication for
21 pain. And that medication was also used for psych medication.
22 And the medication was -- I was having a bad reaction to that
23 medication. And I kept the medication inside of a bowl. And
24 when they did a search and seizure on my home, they found the
25 medication. And I had a disciplinary for that.

1 Q. You said search and seizure of your home. Actually, your
2 cell?

3 A. Well, yes, sir. Yes, sir.

4 Q. Let's talk about the day you were arrested in this case.
5 Can you explain the day you were arrested in this case?

6 A. Yes, sir. It was 3-9 of '11, which was actually my
7 birthday. And what happened in this case I was getting ready
8 to go to work that morning. And, um, where my house is located
9 there's a quite a few bars on the other side of the house. And
10 I have a habit of going over there when I see cars parked there
11 because there's times when the people have been drunk or stuff
12 like waken them up and got them up. And I went over there.
13 And that's when Samantha was in the car when I approached her.

14 Q. Who's Samantha?

15 A. The FBI agent. Because I thought she needed help. I was
16 going to see if she was okay.

17 Q. What happened?

18 A. Samantha came out the vehicle. And when I seen it was her,
19 I just said whatever you need I'm here.

20 Q. Did you see her before that day?

21 A. Never.

22 Q. So what happened?

23 A. She just arrested me. And we -- I agreed to help her with
24 whatever she needed to be done at that time.

25 Q. Now, did you give a statement that day?

1 A. Yes, I did.

2 Q. And you give a statement regarding what?

3 A. Regarding my activities in Chaparral and northeast. And
4 regarding other activities that were present at that time.

5 Q. When did you become a BA member?

6 A. 1999 in the Sanchez Unit.

7 Q. How did it happen?

8 A. In 1999 in the Sanchez Unit, I was a prospecto. And there
9 was Lugas -- Anque was there. And at that time my paperwork
10 was getting ready to go in. And he's the one who passed me
11 through and got my -- what they call your huaraches. He is the
12 one who became my padrino.

13 Q. Who was?

14 A. Lugas Anque.

15 Q. Did he maintain -- or was he your padrino throughout the
16 course of your career with the BA?

17 A. Yes, he was.

18 Q. Who witnessed it?

19 A. That was Mota. And he was also from Odessa. And Danny
20 Boy. He was also from Odessa.

21 Q. And where were they from?

22 A. Odessa. Midland.

23 Q. That's part of Texas?

24 A. Yes, in the west part.

25 Q. You're familiar -- once you became a BA member you became

1 familiar with sacred rules.

2 A. Yes, sir.

3 Q. What are some of the more important sacred rules that come
4 to mind?

5 A. One that mostly comes to mind is exactly what we're doing
6 is participating with law enforcement. If you participated
7 with any type of law enforcement, automatically you became an
8 ex. And a green light would be put on you.

9 Q. After you became BA member you were released approximately
10 18 months and sometime in December of 2001. Is that correct?

11 A. Yes, sir.

12 Q. Then you were arrested again in February of 2002?

13 A. Yes, sir.

14 Q. And you met other BA members during that period of
15 incarceration?

16 A. Yes, I did.

17 Q. Where were you incarcerated during that period of time?

18 A. Um, first I was incarcerated at the Sanchez Unit. From the
19 Sanchez, I was incarcerated at a prerelease unit. And then
20 that's when I was sent to Telford.

21 Q. I'm going to show what I believe is in evidence. But if it
22 isn't, I will show it to the witness that the point, 16D-1.

23 THE COURT: D or B?

24 MR. COOLEY: D as in David.

25 THE COURT: I show it's in.

1 MR. COOLEY: Can we show it just to the witness at
2 this point?

3 THE COURT: Sure.

4 Q. (By Mr. Cooley) Do you recognize the individual in this
5 photo?

6 A. That is me.

7 Q. Who's that?

8 A. It is me.

9 MR. COOLEY: Again, Your Honor, for the record we
10 offer if it hasn't been 16D-1.

11 THE COURT: It was admitted when Marquez was on the
12 witness stand.

13 MR. COOLEY: I would ask that it be published, Your
14 Honor.

15 THE COURT: It may be published.

16 Q. (By Mr. Cooley) You have a series of tattoos on your body.
17 Is that right?

18 A. Yes, I do.

19 MR. COOLEY: At this time I would ask to show the
20 witness 16D-3. It's not evidence at this point.

21 THE COURT: All right.

22 Q. (By Mr. Cooley) Do you recognize 16D-3?

23 A. Yes, sir, that is my back.

24 Q. And it has a series of tattoos. Is that correct?

25 A. Yes, sir.

1 MR. COOLEY: We offer evidence 16D-3.

2 THE COURT: Any objections?

3 MR. FOSTER: No objections.

4 Q. (By Mr. Cooley) We're not going to go through all these
5 tattoos. But if you can describe as far as the BA's concerned,
6 Barrio Azteca. Which of those tattoos closely represents your
7 participation and membership of the BAs?

8 A. It would have to the calendario and also -- plus, the
9 feather serpent, sir. Feathers. Exactly.

10 Q. Basically that area?

11 A. Yes, sir.

12 MR. COOLEY: We didn't publish that.

13 THE COURT: Oh, I thought --

14 MR. COOLEY: My apologies.

15 Q. (By Mr. Cooley) There's a circle right now. That's the
16 area you're talking about?

17 A. Yes, sir.

18 Q. Would you please focus in on that circled area. So you're
19 talking about the calendar and the serpent?

20 A. Yes, sir.

21 Q. Feather serpent?

22 A. Yes, sir.

23 Q. Now, you were -- when you -- towards the end of your time
24 before your arrested, you were holding a position of authority
25 within the BA. Is that correct?

1 A. Yes, sir.

2 Q. What area?

3 A. I had Northeast and Chaparral.

4 Q. And at some point do they distinguish between one or the
5 other -- in other words, sometimes it's just Northeast and
6 encompasses Chaparral, other times, um, it's split up. Is that
7 correct?

8 A. Yes, sir.

9 Q. When did you -- you've had that position on two separate
10 occasions. Is that correct?

11 A. Yes, I had.

12 Q. The first time you had it for how long?

13 A. Oh, approximately, five to six months.

14 Q. And who appointed that position to you?

15 A. It was Nano.

16 Q. Did he take it away?

17 A. Yes, he did.

18 Q. Why?

19 A. I wasn't doing -- I wasn't bringing no quotas in. I wasn't
20 doing the job that was supposed to be done.

21 Q. Who replaced you?

22 A. Bird.

23 Q. How long did Bird have that position?

24 A. I really do not know. I know he did it until he got
25 arrested.

1 Q. After he got arrested, who took over?

2 A. I took it back.

3 Q. And you kept that position for how long?

4 A. Until I was arrested.

5 Q. Before you were arrested. To the day you were arrested or
6 shortly before?

7 A. Shortly before I was arrested.

8 Q. Now you mentioned quota. When you were collecting quota,
9 um, you weren't collecting quota during your first period of --

10 A. No, sir.

11 Q. When you had the leadership in northeast?

12 A. No, sir. That was one of the problems.

13 Q. What about the second time?

14 A. Yes, I was.

15 Q. Do you know, um, a person by the name of Spook?

16 A. Yes, I do.

17 Q. How do you know a person by the name of Spook?

18 A. I met him when we had a junta. That was the first time I
19 met him. That's when we were called to a gathering together to
20 meet Spooky.

21 Q. You mentioned a word. What word did you mention?

22 A. Junta.

23 Q. What is that?

24 A. It's like a gathering where we -- the ones who are in
25 charge of the areas are the ones that are called in who have

1 some type of say so in an area. We get together and we have a
2 meeting.

3 Q. Where did that take place?

4 A. In some hotel. I wasn't sure right there. I'm pretty sure
5 about Yarbrough. In that area.

6 Q. When did this take place, approximately?

7 A. Whoa. Golly. The exact date, I'm not sure of when it was.

8 Q. Do you know an individual by the name of Payaso?

9 A. Yes, I do.

10 Q. How do you know?

11 A. I met Payaso when I was in the Telford Unit. And, um, he
12 was released before I was released. And that's where me and
13 him became friends.

14 Q. During the period of time when you were collecting quota
15 during your last period of leadership in the northeast?

16 A. Yes, sir.

17 Q. What were you doing with the quota once you collected it?

18 A. First of all, when I was receiving quota from the two
19 different areas, I would take the quota to -- that's when
20 Payaso had the bank. So I was taking it to him first.

21 Q. 13B is up. Published.

22 Do you see a group of individuals that are depicted in
23 Government's Exhibit 13B?

24 A. Yes, I do.

25 Q. Do you recognize any of the individuals in that photo?

1 A. Paya and Cano.

2 Q. If you can, which one is Cano?

3 A. Cano is the heavysset one over here to your -- my right.

4 Q. The second one to the right?

5 A. Yes, sir. Yes, sir.

6 Q. Payaso. Which -- describe what he's wearing.

7 A. He's wearing the Redskins jersey with the 21. Right
8 next -- that's him. Yes, sir.

9 Q. That individual?

10 A. Yes, sir.

11 Q. That's the individual that you would dropoff quota?

12 A. Yes, sir.

13 Q. At some point did you stop?

14 A. Yes, I did when he was arrested.

15 Q. After he was arrested, who was collecting quota?

16 A. After he was arrested, it went to the Lopez brothers, to
17 Omar.

18 Q. And does he go by a nickname?

19 A. Yes, he does.

20 Q. What is it?

21 A. Peewee.

22 Q. How long was he collecting quota?

23 A. Oh, I would say, probably -- I'm not really sure. But I
24 would have to give it like for four or five months.

25 Q. Months?

1 A. Yes, sir.

2 Q. Now -- during the period of time with, um, you mentioned
3 this meeting -- did this meeting occur before or after Payaso
4 was arrested?

5 A. It was after.

6 Q. How long after that?

7 A. Boy, I'm not really sure on that time. I'm not really
8 sure.

9 Q. Are we talking a month, two months?

10 A. No. We're talking a lot longer than that. Maybe three or
11 four months.

12 Q. You said you were arrested when?

13 A. 3-9-11.

14 Q. Okay. And if Payaso was arrested in November, are you
15 still certain it was three or four months after that?

16 A. In November?

17 Q. November 2010.

18 A. Yes, sir.

19 Q. Now, you said that Peewee --

20 MR. COOLEY: One moment, Your Honor.

21 Q. Now in terms of, um -- let's talk about this meeting. Um,
22 how many people were at this meeting when you first met Spook?

23 A. I'd say probably around 11 or 12 people.

24 Q. And you said occurred in a hotel you believe on the east
25 side of El Paso?

1 A. Yes, it was the east side.

2 Q. What was the purpose of this meeting?

3 A. Basically to let us know we had Spook here and that we had
4 a capo and he was taking care of everything in the calles. And
5 everything was his.

6 Q. Who called the meeting?

7 A. I was told to come to the meeting by Manny.

8 Q. Who is Manny?

9 A. Lopez. He was a sergeant.

10 Q. Up until then you understand that Manny was running El
11 Paso?

12 A. Yes, sir. Yes, sir.

13 Q. So he calls this meeting. You said there was ten or more
14 people there. Is that right?

15 A. Yes, sir.

16 Q. What takes place during that meeting?

17 A. It was just discussing the things. And how things were
18 ran. And what things were going on. And how things were going
19 to change. And, um, then also introducing us to Spooky.

20 Q. Who was doing most of the talking?

21 A. Spooky was.

22 Q. You keep referring to Spooky. Do you see him in the
23 courtroom today?

24 A. Yes, I do.

25 Q. Describe what he's wearing. Where he is sitting?

1 A. Wearing a blue suit with a blue shirt. And he's sitting
2 over there on that able.

3 MR. COOLEY: May the record reflect the identification
4 of the defendant, Your Honor.

5 THE COURT: It will so reflect.

6 Q. (By Mr. Cooley) Um, that's the first time you met him?

7 A. Yes, sir.

8 Q. Um, so, in general, you talked about what was being
9 discussed. Was there any particular focus on you during that
10 meeting?

11 A. Really, the only thing I was focused on me was
12 straightening up my area also. And being able to, um, meet the
13 quota needs and the things that needed to be done. The
14 meetings were held in Spanish. And I don't speak Spanish. So
15 a lot of times, um, the guys would have to dictate to me what
16 was being said.

17 Q. Now, in comparison to the other sections of El Paso, you
18 had northeast. Is that right?

19 A. Yes, I did.

20 Q. How would you compare what you were collecting on a weekly
21 basis to others?

22 A. Not too good.

23 Q. That was some of the things that Spook was talking to you
24 about?

25 A. Those are some of the things, yes, sir, that were brought

1 up.

2 Q. Now, again, you mentioned that Payaso was -- when Payaso
3 was arrested, Peewee took over. Does somebody replace Peewee?

4 A. After -- no, not that I know of. When I was dropping off
5 to Peewee, the next one I started dropping off to was Spook.

6 Q. So somebody did take over?

7 A. It would be Spooky, yes, sir.

8 Q. You dropoff quota to him personally?

9 A. Yes, I did.

10 Q. Approximately, how many times?

11 A. A good four or five times.

12 Q. Do you recall some of the locations in which you would drop
13 money off?

14 A. Yes, Gateway East. There at the Kentucky Fried Chicken.
15 Also, right there across from the University Medical. Then we
16 also did a drop right there on -- right there by Cielo Vista
17 Mall at the Valero.

18 Q. When you're dropping off, are you dropping off personally,
19 alone or with somebody?

20 A. No, I would be by myself.

21 Q. What was the approximate amounts of money that you're
22 dropping off on those occasions?

23 A. Basically, I would be dropping 450. Because I was getting
24 approximately 250 from Chaparral and 200 from the norte.

25 Q. Now, towards the end, um, we don't need to get into quota.

1 A. Okay.

2 Q. But prior to you being introduced to Spook, were the
3 brothers, the BA members, did they have to pay quota on drugs
4 they sold?

5 A. No. There was a rule that was brought in that I know that
6 I've heard about it before. But it was ten percent of whatever
7 the brothers had on their sales that they put in what was
8 supposed to be used as a bank to be used for family.

9 Q. When was the last time that occurred before that you first
10 met Spook?

11 A. It wasn't never occurred. When we had -- Spooky took over,
12 he set that up also from my understanding. And that was to set
13 up a bank for -- specifically for the carnales out there who
14 needed money for bills or whatever might need have been done.

15 Q. So your understanding he was going to charge BA members ten
16 percent for ten percent of their drug sales?

17 A. Yes. Yes, sir. Their personal.

18 MR. COOLEY: Now, can you bring up Exhibit 14B? I'd
19 ask this published.

20 THE COURT: You may.

21 Q. (By Mr. Cooley) Do you recognize what's on the screen?

22 A. Yes, sir.

23 Q. What is that?

24 A. This was that Blood River. That was that sort of like that
25 CD made about the Barrio Aztecas. I think I seen this on You

1 Tube.

2 Q. Do you know whether or not other brothers have seen it as
3 well?

4 A. I'm pretty sure they have.

5 Q. Okay. Was this something discussed when you first saw it?

6 A. Yes, I think so. I know that we had talked about this.

7 Q. Let's talk about a few days before you were arrested. Did
8 you meet the defendant a couple days before you were arrested?

9 A. Yes, sir, I did.

10 Q. Who were you with?

11 A. I was with Fragoso.

12 MR. COOLEY: Can you bring up 16E-1, please? I would
13 ask that this be published.

14 THE COURT: You may.

15 Q. (By Mr. Cooley) Do you recognize this individual depicted
16 in 16E-1?

17 A. Yes, sir.

18 Q. Who is that?

19 A. Fragoso.

20 Q. So a couple days before you were arrested you and Fragoso,
21 meet the defendant. Is that correct?

22 A. Yes, we do.

23 Q. Where did that meeting take place?

24 A. It took place at Memorial Park.

25 Q. What was the point of that meeting?

1 A. It was -- I was going to give everything to Fragoso. I
2 wanted out.

3 Q. What do you mean give everything to him?

4 A. Fragoso -- he had the norte with me. But at this time I
5 was turning everything over to Fragoso.

6 Q. When you say he had the northeast with you, what does that
7 mean?

8 A. We were working northeast jointly.

9 Q. So the northeast encompassed Chaparral as well?

10 A. Exactly.

11 Q. So you're working it together and you wanted to walk away?

12 A. Yes, I did.

13 Q. Why did you want to walk away?

14 A. I was done.

15 Q. Now, being a BA member, you know you just can't walk away.

16 A. That's right.

17 Q. What story did you give them to help you walk away?

18 A. I told them that my cancer had reoccurred.

19 Q. Did you have cancer?

20 A. I had it before. But I don't have it. It was a lie.

21 Q. Now before you did that, um, did you talk to Rigo about
22 this?

23 A. Yes, I did.

24 Q. What did he agree to do?

25 A. He agreed to take the norte.

1 Q. As a result of that, um, you approached the defendant. Is
2 that right?

3 A. Yes, we did.

4 Q. And you told him you had cancer.

5 A. Yes, I did.

6 Q. And you wanted out.

7 A. Yes, sir.

8 Q. What decision did he make?

9 A. He said it was fine.

10 Q. Now, during that conversation was there a name brought up,
11 the name of Sinner?

12 A. Excuse me?

13 Q. Was the name Sinner brought up during that meeting?

14 A. Yes, it was. Yes, it was.

15 Q. In what context did he bring up the name Sinner?

16 A. Through the conversation that we were having Sinner's name
17 came up and another ex-member came up. I don't know who this
18 ex-member is. But, um, the deal is that, um, Spook -- he
19 wanted Sinner out of the way, basically.

20 Q. What does that mean?

21 A. That means you take him out of the way. Get him out of
22 there.

23 Q. What does that mean?

24 A. Put him to sleep.

25 Q. Put him to sleep. Can you be more specific?

1 A. Oh, kill him.

2 Q. Now, as a result of that, um, was somebody contacted to do
3 that?

4 A. Yes, sir. When we left -- when we left Spooky from
5 Memorial, um, me and Fragoso -- Fragoso dropped me off. And I
6 picked up my vehicle. And we met Whispers over there on -- by
7 54 -- by 54 and Howdy's. And at this time, Fragoso, since he
8 had -- he had the area, talked to Whispers about the hit that
9 needed to be done.

10 Q. Who's Whispers?

11 A. Was another carnal from -- he was from northeast and also
12 from Chaparral.

13 Q. Another BA member?

14 A. Yes, he was.

15 Q. Did he agree to take on that assignment?

16 A. He's been waiting to take that. Oh, yes. Most definitely.

17 Q. He agreed to take on the mission of killing Sinner?

18 A. Yes, sir.

19 Q. Why was Sinner so important as a target for the BA?

20 A. Um, from my understanding, this is all I really know about
21 this issue, is I know he was moving a lot of drugs also. And,
22 um, that he was, you know, that he was in areas and he wasn't
23 supposed to be moving. And there's other things that I
24 probably don't know that was going on also.

25 MR. COOLEY: One moment, Your Honor.

1 Q. Mr. Roberts, let's go back a little bit about the
2 collection of the quota and you who dropping it off to.

3 A. Okay.

4 Q. You indicated that, um, Payaso -- up until Payaso was
5 arrested for an extended period of time you were dropping off
6 to him.

7 A. Yes, sir.

8 Q. After him, you were dropping off to Peewee.

9 A. Yes, sir.

10 Q. And after Peewee you dropped off to the defendant.

11 A. Yes, sir.

12 Q. Is that right?

13 A. Yes, sir.

14 Q. And you estimated if Payaso was arrested in mid-November of
15 2010, you were arrested in March of 2011, you still believe
16 that you were dropping off to Peewee for four months. Or would
17 it much less time?

18 A. It had to have been more time.

19 Q. More time or less?

20 A. More time. It's because I'm not really sure on the dates
21 on the time.

22 Q. From the time of November, mid-November to March of 2011,
23 is basically four months, maybe five.

24 A. Right.

25 Q. Is that correct?

1 A. Right. Right.

2 Q. Tops. How long of a period of time were you dropping off
3 quota to the defendant? You say you dropped off five times.
4 Over what period?

5 A. Like, about five times. But after that, Whispers was going
6 to drop it off to the defendant.

7 Q. Five times. And when you're typically dropping off, you're
8 dropping off on a weekly basis?

9 A. Yes, sir. Yes, sir.

10 Q. So five times. That's a five-week period. Is that right?

11 A. Yes, sir. Yes, sir.

12 Q. And the last time you dropped off to the defendant before
13 you were arrested was how long?

14 A. I would have to say probably in February.

15 Q. So approximately a month prior to that?

16 A. Yes, sir.

17 MR. COOLEY: No further questions, Your Honor.

18 THE COURT: All right. Mr. Foster.

19 CROSS-EXAMINATION

20 MR. FOSTER: Just a couple questions, Judge.

21 BY MR. FOSTER:

22 Q. This meeting you went to on this hotel where 11 or 12
23 people were there, was Fernando Carrillo Candia at that
24 meeting?

25 A. Who is this?

1 Q. Fernando Carrillo. Do you remember a Fernando Carrillo?

2 A. No, sir.

3 Q. The people that were at that meeting that were like
4 leadership people, were they not?

5 A. Yes, they were. I know that the ones that I knew. You
6 know, I don't know all of them. Like I knew Espino and Manny.

7 Q. It wasn't for someone who'd just been initiated into the
8 BA, right?

9 A. No, not that I think of.

10 Q. Now, you said you met Mr. Renteria at a KFC on Gateway
11 East.

12 A. Yes, sir.

13 Q. Whereabouts on Gateway East?

14 A. You know, I really don't know the street. I know when you
15 come off -- when you come off the interstate, there's a
16 Kentucky Fried Chicken if you're going west. There's a
17 Kentucky Fried Chicken. There's a 7-Eleven right there across
18 the street, too.

19 Q. So that would be on Gateway West?

20 A. Right.

21 Q. Not Gateway East.

22 A. That's what I thought I said was west.

23 Q. At Cielo Vista Mall?

24 A. Yes, sir.

25 Q. Where is Cielo Vista Mall?

1 A. It's right there by Hawkins, Viscount off I-10.

2 Q. East side.

3 A. Yes, sir.

4 MR. FOSTER: I will pass the witness, Judge.

5 THE COURT: Anything further?

6 MR. COOLEY: Nothing further, Your Honor. Thank you.

7 THE COURT: May he step down? And is he released as a
8 witness?

9 MR. COOLEY: Yes, from the Government, Your Honor.

10 THE COURT: Mr. Foster?

11 MR. FOSTER: Yes, Judge.

12 THE COURT: Thank you. You may step down.

13 THE WITNESS: Thank you.

14 THE COURT: Ladies and Gentlemen of the Jury, it is
15 5:10. We're gonna go ahead and break for the day. Remember,
16 you remain under all the instructions the Court has previously
17 given you. I do want to give you some specific instructions.
18 And that is, we are off on Monday because of the holiday. So
19 it is important that you remember all of the things this Court
20 told previously told you about not discussing the case with
21 anybody, not doing any independent research, not reading any
22 articles or anything about the case.

23 We're getting close to getting this resolved. And, as
24 you can imagine, if I had to try this all over again, it would
25 take a lot of time. So, please, follow all the instructions.

1 And we will see you Tuesday morning at 8:30. All right? Thank
2 you. Have a great weekend.

3 (Jury leaves courtroom.)

4 THE COURT: You may be seated. Anything we need to
5 take up before we recess?

6 MR. SKARET: Nothing, Your Honor.

7 MR. FOSTER: Nothing, Judge. I think we're gonna get
8 together on Saturday and see if we can work out some other
9 problems.

10 THE COURT: Okay. This doesn't need to be on the
11 record.

12 (Recess for the evening.)

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INDEX

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
WITNESSES FOR THE GOVERNMENT:				
FABIAN GALINDO	3	21		
ALBERT MENDOZA		37	50	
FABIAN GALINDO	52	62	69	
GREG WATERSON	70	96	97	
ANGEL RENTERIA	99	145	155	
FERNANDO CANDIA	158	201	209	
THOMAS ROBERTS	211	234		

EXHIBITS:

Admitted

Government

100	Photograph	85
16B-1	Photograph	75
16G-1	Photograph	93
16H-1	Photograph	94
16D-3	Photograph	219
26	Chart	201
33A-1	Transcript	77
33A-2	Transcript	77
33B-1	Transcript	78
33B-2	Transcript	78
34	Form	60

1

2

3

4

5

6

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature: /s/ David A. Perez, RMR, RPR Date: July 16, 2013

David A. Perez, RMR, RPR